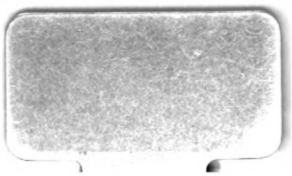

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OF

MORAL PHILOSOPHY.

For the uſe of Students in the College of EDINBURGH.

By ADAM FERGUSON, LL.D.

EDINBURGH:

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INTRODUCTION.

SECTION I.

Of Knowledge in general. *

ALL knowledge is either of particular facts, or of general rules.

The knowledge of facts is prior to that of rules; and is the first requisite in the practice of arts, and in the conduct of affairs.

* Bacon's Novum organum.

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A general rule is the expreſſion of what is common, or is required to be common, in a number of particular caſes.

General rules are the reſult of obſervation, or will; and conſequently are derived from mind.

Practice, or conduct of any ſort, though regulated by general rules, has a continual reference to particulars.

In ſpeculation, we endeavour to eſtabliſh general rules.

In practice, we ſtudy particular caſes, or apply general rules to regulate our conduct.

SECT. II.

Of Science.

A Collection of facts, in deſcription or narration, conſtitutes hiſtory.

General

General rules, and their applications, to regulate or to explain particulars, conſtitute ſcience.

Any general rule collected from facts, is termed *a law of nature.*

A general rule, when applied to explain or regulate particulars, is termed *a principle*; and explanation from principle is termed *theory.* The particulars to be explained are termed *phenomena.*

Method in ſcience is of two kinds; analytic, and ſynthetic.

Analytic method is that by which we proceed from obſervation of fact, to eſtabliſh general rules.

Synthetic method, is that by which we proceed from general rules to their particular applications.

The firſt is the method of inveſtigation.

The second of communication, or of the enlargement of science.

Argument is of two kinds:

A priore, and *a posteriore*.

By an argument *a priore*, the fact is proved from the law.

By an argument *a posteriore*, the law is proved from the fact.

SECT. III.

Of the laws of Nature.

THE laws of nature are either physical, or moral.

A physical law is any general expression of a natural operation, as exemplified in a number of particular cases.

In every operation, men are by nature disposed to apprehend an operating power or cause.

Causes

Cauſes are of two kinds:

Efficient, and final.

The efficient cauſe, is the energy or power producing an effect.

The final cauſe, is the end or purpoſe for which an effect is produced.

In ſuppoſing final cauſes, we ſuppoſe the exiſtence of mind.

Phyſical laws refer only to efficient cauſes; ſuch therefore are the immediate objects of ſcience.

A moral law is any general expreſſion of what is good; and therefore fit to determine the choice of intelligent beings.

A phyſical law exiſts ſo far only as it is the fact.

A moral law exiſts in being obligatory.

The ſubject from which phyſical laws are collected, may be claſſed under four principal heads:

Mechaniſm, vegetation, animal life, and intelligence.

It has not hitherto been made appear, although ſometimes attempted, that the operations of any of theſe different natures are comprehended under the ſame laws to which the others are ſubjected.

The phenomena of vegetation are not comprehended under any known law of mechaniſm, much leſs animal life or intelligence.

The ſubjects from which moral laws are collected, are the ſentiments and actions of intelligent natures.

The immediate uſe of phyſical laws, is theory.

The immediate uſe of moral laws, is moral philoſophy.

SECT.

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SECT. IV.

Of Theory.

THeory conſiſts in referring particular operations to the principles, or general laws, under which they are comprehended; or in referring particular effects to the cauſes from which they proceed.

To point out any general rule or law of nature previouſly known, in which any particular fact is comprehended, is to account for that fact.

Thus Sir Iſaac Newton accounted for the planetary revolutions, by ſhowing that they were comprehended in the laws of motion and gravitation.

To pretend to explain phenomena,

mena, by ſhowing that they may be comprehended in any ſuppoſition, or by applying to them, metaphorically, the language which is derived from any other ſubject, is illuſory in ſcience.

Thus the vortex of Deſcartes, being a mere ſuppoſition, made no true explanation of the planetary ſyſtem: and the terms, *idea*, *image*, or *picture*, of things, being terms merely metaphorical, cannot explain human knowledge or thought.

All phenomena not comprehended under any known law, are the proper materials of natural hiſtory.

All facts that cannot be explained by any rule previouſly known, or better known than the facts themſelves, may be termed *ultimate facts*.

It

It is evident, that all theory muſt reſt on ultimate facts.

To require proof *a priore* for every fact, were to ſuppoſe, that human knowledge requires an infinite ſeries of facts and explanations; which is impoſſible.

SECT. V.

Of Moral Philoſophy.

MOral philoſophy is the knowledge of what ought to be, or the application of rules that ought to determine the choice of voluntary agents.

Before we can aſcertain rules of morality fitted to any particular nature, the fact relating to that nature ſhould be known.

Before we can aſcertain rules of morality for mankind, the hiſto-

ry

ry of man's nature, his diſpoſitions, his ſpecific enjoyments and ſufferings, his condition and future proſpects, ſhould be known.

Pneumatics, or the phyſical hiſtory of mind, is the foundation of moral philoſophy.

SECT. VI.

Of Pneumatics.

PNeumatics treat phyſically of mind or ſpirit.

This ſcience conſiſts of two parts.

The firſt treats of man; the ſecond, of God.

That part which treats of man, may contain the hiſtory of man's nature, and an explanation or theory of the principal phenomena of human life.

That

That which treats of God, contains the proofs of his exiſtence, attributes, and government.

The hiſtory of man contains either ſuch facts as occur on a general view of the ſpecies, or ſuch as occur to the individual, in recollecting what paſſes in his own mind.

The firſt may be termed, *the hiſtory of the ſpecies*; the ſecond, that *of the individual.*

In the theory of human nature are ſolved queſtions relating to the characters of men, to the nature and future proſpects of the human ſoul.

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PART I.

The natural hiſtory of Man *.

CHAP. I.

Hiſtory of the Species.

SECT. I.

General arrangement.

THE hiſtory of the human ſpecies contains the following articles.

1. The form and aſpect of man.

* See Buffon's Natural Hiſtory.

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2. His reſidence, and manner of ſubſiſtence.

3. The varieties of his race.

4. The period of his life.

5. His diſpoſition to ſociety.

6. Population, or the generations and numbers of mankind.

7. Varieties of choice and purſuit.

8. Arts and commerce.

9. Diſparities of rank and eſtimation.

10. Political eſtabliſhments.

11. Language and literature.

SECT. II.

Of the form and aſpect of Man.

THE human form is erect, furniſhed with articulations and muſcles, fitted to retain this poſture,

poſture, and to move in it with eaſe and ſafety.

The hand and the arm of man, is an inſtrument and a weapon, not a prop or ſupport to his body.

His form and poſture are well fitted to obſervation, to the uſe of reaſon, and to the practice of arts.

He is naked and unarmed; but by his invention qualified to ſupply theſe defects.

The final cauſe appears to be, that the talent of man for invention ſhould be employed.

His aſpect is expreſſive of his thoughts, ſentiments, and intentions. It is calm or agitated; mild or fierce; languid or ardent; doubtful or decided; timid or intrepid.

His natural expreſſions conſiſt of actions, geſtures, ſmiles, frowns, tears, looks, together with chan-

ges of colour; and exhibit, on the whole, a variety, and a grace, which either do not take place, or are not obſerved, in other animals.

SECT. III.

Man's Reſidence, and manner of Subſiſtence.

OTher animals have their ranges on the earth, beyond which they do not willingly ſtray, or beyond which they are not qualified to ſubſiſt.

Some ſubſiſt only in the hot climates, others in the cold or the temperate; but man reſides equally in every climate, and can ſubſiſt on great varieties of food, both animal and vegetable.

He either accommodates himſelf

ſelf to the inconveniences of his ſituation, or learns to ſurmount them.

SECT. IV.

Varieties of the human race.

UNder the general form and aſpect of mankind, there are conſiderable varieties of the race.

Men being diſperſed over the face of the earth, receive the influences of climate, ſituation, and ſoil.

The animal and rational temperament, is comparatively phlegmatic and dull in cold climates; is more ardent and quick in warm climates; but has always poſſeſſed a diſtinguiſhed ſuperiority in the temperate.

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Apart from these distinctions, the diversities of race are marked by a difference of stature, features, and complexion.

Mankind may be referred to six different races.

The European, the Samoeide, the Tartar, the Hindoo, the Negro, and the American *.

SECT. V.

Period of human life.

EVery species of animal is preserved by succession.

The death of one generation is as much a part in the order of nature, as the birth and succession of another.

In the human species, accor-

* Buffon of the varieties of the human race.

ding

ding to ſome obſervations, half the numbers that are born die before the ſeventeenth, the ſeventh, or even the third year of their age is expired.

Long life *, in all climates, conſiſts of between ſeventy and a hundred years.

It appears from the annual regiſter of deaths where the numbers of people are known, That about one in thirty dies each year:

That of twenty-ſeven or twenty-eight, one is born:

That about a fourth of the whole number are males between eighteen and fifty-ſix, able to carry arms.

* Buffon's Natural hiſtory. Halley's Tables. Lowthorp's Abridgement of the Philoſophical Tranſactions, vol. 3. p. 662.

SECT.

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SECT. VI.

Diſpoſition of man to ſociety *.

ANimals have been diſtinguiſhed into two claſſes; the ſolitary, and the ſocial.

Animals of prey, for the moſt part, are ſolitary.

Other animals are, for the moſt part, aſſociating.

The aſſociating may be farther ſubdivided into two kinds:

1. Thoſe which aſſemble in flocks or herds, merely for company or ſafety:

2. Thoſe who unite their labours for ſome common purpoſe,

* Eſſay on the Hiſtory of Civil Society, part 1. ſect. 3.

and

and diſtribute the burdens of the community according to ſome rule of inſtinct or of reaſon.

The latter are aſſociating and political. Man, though an animal of prey, and from neceſſity or ſport addicted to hunting or war, is nevertheleſs, in the higheſt degree, aſſociating and political.

The ſpecies is every where found in troops, companies, and fraternities, or in national confederacies.

They aſſociate in certain numbers from affection and choice.

In greater numbers, they are aſſembled by neceſſity, or the authority of leaders.

They make peace or war from common intereſts, or common animoſities.

If the wars ſubſiſting between ſeparate communities, be a proof of

of eſtrangement and hoſtility, the peace and union ſubſiſting in each community apart, is a proof of attachment and amity.

Men accommodate the form of their ſociety to the number and diſpoſition of their members, to their ſituation and purſuits.

By their confederacy, as well as by their artifice, they are enabled to ſubdue every other ſpecies of animal, to ſubſiſt by their ſpoil, and to employ the ſtrength of other animals, though ſuperior to their own.

Separate ſocieties are, for the moſt part, rivals or enemies *.

By the caſual or forced coalitions of ſmall communities, great ſtates have been generally formed.

* Eſſay on the Hiſtory of Civil Society, part 1. ſect. 4.

SECT.

SECT. VII.

Of Population *.

MEN exiſt in greater numbers than any other ſpecies of the larger animals.

In ſome caſes they are found to increaſe, in others to decreaſe, in their numbers.

The quick or ſlow increaſe of animals in general, depend on the laws of propagation, on the ſecurity, and the means of ſubſiſtence they enjoy.

The firſt relate to the age at which the parent becomes prolific;

* Eſſay on the Hiſtory of Civil Society, part 3. ſect. 4. Wallace's Numbers of mankind. Hume's Populouſneſs of ancient nations.

to

to the time that elapſes in pregnancy; to the frequency of breeding; to the numbers of each brood; and to the period during which the parent continues prolific.

The laws of propagation determine the numbers that may ſpring from any ſingle pair, and the numbers of generations that may ſubſiſt together.

Theſe laws, in every ſpecies of animals, are, in favourable circumſtances, ſufficient to its increaſe.

Men, in every ſecure ſituation, people up to their reſources; and the aid of government is required, not to improve on the laws of propagation, but to beſtow ſecurity and plenty.

Animals of prey have moſt difficulty in procuring their food.

Animals which are made a prey are leaſt ſecure.

The

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The ſecurity and ſubſiſtence of men, are moſt impaired by their own mutual hoſtilities and oppreſſions.

The laws of propagation, as well as the means of ſubſiſtence, are ſuppoſed moſt favourable to population in the warmer climates. To this is imputed the populouſneſs of mankind in thoſe climates, even under great defects of government.

SECT. VIII.

Varieties of choice and purſuit.

MEN have not, like the other animals, a fixed and determinate choice of external objects and purſuits.

Nations are frequently, by the difference of their manners and

cuſtoms, mutual objects of wonder and cenſure, of contempt and averſion.

Even of two men placed in the ſame or like circumſtances, one acquieſces, or is pleaſed; the other complains.

They differ in reſpect to the means which they employ for the attainment of the ſame, or of ſimilar ends.

SECT. IX.

Arts and Commerce *.

THE external purſuits of men terminate in procuring the means of ſafety, of accommodation, or ornament.

They practiſe a variety of arts,

* Harris on Coins.

or

or inventions, for theſe purpoſes; and are more or leſs ſucceſsful in proportion as they have multiplied and completed their arts.

Men appropriate the fruits of their ſkill and induſtry, and endeavour to accumulate wealth.

The arts which they practiſe for ſafety, are, the inventions of arms, places of retreat and defence.

The earlieſt weapons appear to have been, the club, the ſling, and the bow: to theſe ſucceeded, in proceſs of time, the ſpear and the ſword, joined to the buckler or ſhield:

Fire-arms; cannon, and then muſketry.

The deſire of retreats has given riſe to the art of fortification.

The art of war, in every age, muſt be accommodated to the ſpe-

cies of arms, engines, and methods of fortification, in uſe.

The arts which men practiſe for ſubſiſtence, are, fiſhing, hunting, paſturage, and agriculture.

Nations that know leaſt of the means of ſubſiſtence, have recourſe to hunting and fiſhing; or rely on the ſpontaneous growth of the field in herbs or fruit.

In the reſult of theſe arts, the hunting-ground, the lake, the river, or the bay, may be appropriated to the ſociety; but the game is ſeldom appropriated to the individual.

Nations that have obſerved the method, and the advantage, of breeding herds, betake themſelves to paſturage.

They at firſt, generally, migrate, or wander, with their herds.

The individual acquires an immediate

mediate property in cattle, but not in land.

Nations that are acquainted with the uſe of herbs, fruits, and grain, which do not grow ſpontaneouſly, or do not grow in ſufficient quantities, betake themſelves to agriculture.

The culture of land, to a certain degree, is compatible with commonty, as it was among ſome ancient nations of Germany *, and among ſome modern nations of North America.

Agriculture, where the object is the temporary produce of land, is compatible with migration: where the object is the improvement of ſoil, and perpetual fertility, agriculture requires ſettlement, and the property of land.

* Vide Cæſar, lib. 3. cap. 1.; and lib. 6. cap. 22. Charlevoix's Hiſtory of Canada.

As the property of land excites to invention in agriculture, it likewiſe excites to invention in other arts.

They who have no land betake themſelves to manufacture, that they may have wherewith to buy the produce of land.

By manufacture, men are furniſhed with the means of accommodation and ornament.

The means of accommodation are, cloaths, houſes, furniture, utenſils, equipage.

Men, in different ages, are unequally furniſhed with theſe different articles; they are even found to ſubſiſt without them; but, in the ruder climates, under ſuch inconveniences, as diminiſh the numbers of the ſpecies, or prevent their increaſe.

The means of decoration are ſuch things as pleaſe the fancy, without

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without being neceſſary or uſeful.

Men, in all ages, are fond of decoration; they combine ornament with the means of ſubſiſtence and accommodation: but they may ſubſiſt, and enjoy every conveniency, without regard to ornament.

Ornaments are principally made of rare materials; as gems, precious metals, &c.

Riches conſiſt in the abundance of things that conduce to ſafety, ſubſiſtence, accommodation, and ornament.

Riches are the reſult of arts and induſtry.

Whatever ingenuity men exert in the practice of arts, their ſucceſs will depend on a proper diſtribution of their employments, and on their making a ſeparate buſineſs of each.

In

In making this diſtribution, the parties truſt, that they may be able to exchange what they have to ſpare for what they want.

The progreſs of arts, as well as the caſual diſtribution of commodities, depending on ſituation, climate, and ſoil, render commerce expedient, or even neceſſary.

The firſt ſpecies of commerce conſiſted of barter.

There was no common ſtandard of valuation, nor medium of exchange: each party gave what he had to ſpare of one kind, for what he wanted of another.

The practice of trade introduced a general medium of exchange; and this became a ſtandard of valuation.

The firſt medium of exchange, was generally ſome ſtaple commodity, as corn, cattle, &c.

Theſe were things of uncertain value,

value, of inconvenient bulk, periſhing or expenſive in the keeping, and not eaſily divided, without making a change of value:

To avoid theſe ſeveral inconveniences, the precious metals have been admitted in every trading nation as the medium of exchange.

They are, for the greater conveniency, employed in the form of coin.

The pound, or other aſcertained weight or quantity of the precious metals, was employed as the ſtandard of valuation.

The coin of all nations has undergone conſiderable changes, both in reſpect to fineneſs and weight.

The preſent ſtandard for ſilver in England, is 11 oz. 2 dw. fine, to 18 dw. allay.

For gold, 22 carats fine, to 2 carats allay.

The

The pound of ſtandard ſilver, is cut into 62 ſhillings.

That of gold, into 42½ guineas.

The pound of ſilver was originally cut into 20 ſhillings: hence 20 ſhillings are ſtill the nominal pound in money.

In the reign of Edward VI. the ſtandard of ſilver was greatly debaſed, and the coin greatly diminiſhed: The ſtandard conſiſted of three parts of fine to nine of allay; and the pound of this debaſed metal was cut into 72 ſhillings.

The ſtandard and weight of the coin have, ſince the reign of Eliſabeth, remained the ſame.

Operations on the coin embarraſs trade, by perplexing tranſactions, and by alarming the intereſt of debtors and creditors.

If, in debaſing coin, the intereſt of the creditor is not guarded, he muſt be defrauded.

In

In raiſing the value of the coin, the debtor would be defrauded.

Moſt operations on coin have been of the former kind.

The uſe of coin, and actual payments in money, are not neceſſary in every commercial tranſaction.

In the transfer of great ſums, even the precious metals would be cumberſome and inconvenient.

To avoid this inconvenience, the practice of circulating bills has been adopted.

This practice is founded in credit, and tends to extend it.

Commerce employs a number of ſeparate profeſſions; the manufacturer, the factor, the carrier, the merchant, the retailer.

The price of commodities in trade is as their ſcarcity combined with their demand.

Articles, in the production of which,

which, labour, time, and ſkill, are required, continue to multiply, while the price is ſufficient to maintain the labourer during the time he is employed, to reimburſe his apprenticeſhip, and other expences, and to furniſh an adequate reward.

When the price falls below this meaſure, the manufacture is diſcontinued, until the ſcarcity brings up the price.

SECT. X.

Diſparity and Rank.

MEN are diverſified, in reſpect to their perſonal qualities and conditions.

Reſemblance of aſpect, and even of diſpoſition, ſometimes run in the blood; but two perſons the

the moſt nearly reſembling, may be diſtinguiſhed by peculiarities.

Unequal ſtrength and capacity, unequal knowledge reſolution and courage, create a ſubordination. The weak are dependent on the ſtrong, the ignorant on the knowing, and the timorous on the brave.

Even the affectionate are dependent on thoſe whom they love.

Property gives riſe to varieties of condition; and theſe varieties increaſe in the reſult of arts and commerce.

The reſpect paid to the parent is continued to the child.

Fortune and titles becoming hereditary, give riſe to the diſtinction of birth.

When property is unequally divided, the poor are dependent on the rich.

The correlative terms of *depend-*

ence and *power* do not expreſs the whole foundations of inequality. The conditions and qualities of human nature, are conſidered under the predicaments of excellencies and defects: One man is held to be more worthy, another leſs. The notions of ſuperior and inferior prevail; and men, prior to any poſitive inſtitution, are found to occupy different ranks.

They differ in their opinions of the particulars to be claſſed under the oppoſite predicaments of perfection and defect.

The moſt univerſally acknowledged, and the only real excellencies, are perſonal qualities:

Capacity, diſpoſition, and force of mind.

But men ſtill differ in their predilection of qualities, and of their ſuppoſed effects.

They

They prefer qualities the moſt neceſſary in their own ſituations, and the moſt eminent in their own way.

In dangerous ſituations, and in warlike ages, they chiefly admire valour.

In learned ſocieties, they admire knowledge and ingenuity.

In trading nations, they admire induſtry, punctuality, and fair dealing.

But there being ſome circumſtances common in the ſituation and diſpoſition of all mankind; ſuch as, their being united in ſociety, and concerned in what relates to their fellow-creatures; men univerſally admire qualities which fit the individual to promote the good of mankind; as, wiſdom, juſtice, courage, and temperance.

Such qualities are generally comprehended under the title of *Virtue*.

Oppoſite qualities, under the title of *Vice*.

Men, notwithſtanding, frequently miſtake for excellencies, the external appearances or decorations of the perſon, together with the poſſeſſion of ſuch things as are generally coveted around them; as, riches, power, and fame.

They miſtake, on the contrary, for defects, the oppoſite conditions; ſo much, that whilſt they commend virtue, or cenſure vice, they admire ſtill more than the one, equipage, dreſs, fortune, ſtation, and name; they fear ſtill more than the other, poverty and obſcurity.

Theſe admirations and fears are a ſymptom, that perſonal qualities are neglected, and that men are degenerated.

SECT.

SECT. XI.

Of Political Eſtabliſhments *.

WHere men aſſociate from affection and choice, and with little ſenſe of private or of ſeparate intereſt, they have been known to ſubſiſt without rule or political eſtabliſhment.

Even where they aſſociate from a ſenſe of expediency or neceſſity, they follow, without rule, the ſuggeſtion of every particular occaſion.

But in maintaining an union which has ariſen from caſual coalitions, or force, ſocieties have

* L'Eſprit de Loix, liv. 2. Eſſay on the Hiſtory of Civil Society, part 1. ſect. 10. Ibid. part 3. ſect. 2.

been obliged to adopt, and to ſubmit to, government.

Where the coalition was caſual, or forced, individuals felt ſeparate intereſts, and wiſhed for rules to adjuſt their diſputes.

Some ſuffered themſelves to be governed, and others pretended to government, on the footing of caſual dependency and ſuperiority.

The abuſes of caſual ſubordination have led men to think of poſitive inſtitutions.

Poſitive inſtitutions have confirmed, altered, or reſtrained, the powers which ariſe from caſual ſubordination.

All the political inſtitutions of men may be reduced to two general claſſes:

The ſimple, and the mixed.

Under the ſimple inſtitutions, the ſupreme power is committed to

a

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a ſingle perſon, or to a ſingle aſſembly or body of men.

In mixed inſtitutions, the ſupreme authority is exerciſed by a plurality of collateral powers.

Simple inſtitutions are, democracy, ariſtocracy, monarchy, and deſpotiſm.

Democracy is the ſupreme power of the collective body.

This inſtitution is calculated to correct, or to remove, the effects of adventitious dependency and ſubordination, and to reconcile equality with order.

Ariſtocracy is the ſupreme power of a particular rank or claſs of men.

This claſs of men has, in ſome caſes, been elective; in others, hereditary.

The inſtitution itſelf, though calculated to confirm the ſuperiority of one rank, and the dependence of

of the other, may, notwithſtanding, preſerve equality among the members of each claſs.

Monarchy is the ſupreme power of a ſingle perſon, who, placed at the head of many ſubordinate dignities, has an authority defined by laws.

This inſtitution is calculated to confirm adventitious dependency and ſubordination.

Extenſive and perpetual military arrangements have led to monarchical ſubordination.

Deſpotiſm is the ſupreme power of a ſingle perſon, aſſumed and maintained by force, on the ruin of every other pretenſion to rank.

Deſpotiſm has ariſen from conqueſt, or military uſurpation.

Mixed inſtitutions are, either mixed republics, or mixed monarchies.

In mixed republics, the ſupreme power

power has been ſhared betwixt the collective body, and a ſenate or convention of nobles.

In mixed monarchies, the ſupreme power has been ſometimes ſhared betwixt a king and nobles, or betwixt a king, nobles, and people.

SECT. XII.

Language and Literature.

LAnguage, in the moſt general ſenſe, comprehends all the external ſigns of thought, ſentiment, or will.

Signs are, either original, or conventional *.

Original ſigns are ſuch as men

* See Reid's Inquiry into the human mind.

are

are led by inſtinct to employ, and to interpret.

Such are, tones of the voice, change of features, and geſtures.

Conventional ſigns are ſuch as men have agreed upon, or rendered cuſtomary.

Conventional ſigns may be ranged under the three following heads.

1. Mute ſigns.
2. Speech.
3. Written characters.

Where men are forbid the uſe of ſpeech, or are defective in the organs of hearing, or of pronunciation, they have recourſe to mute ſigns; and attain, in a conſiderable degree, the purpoſes of language.

Nations employ unequal meaſures of action, and of mute ſigns, together with ſpeech.

Speech is univerſal to mankind, and peculiar to the human ſpecies.

Every

Every ſeparate nation, or tribe, for the moſt part, has had a ſeparate language, or different dialect.

The theory of ſpeech, whether univerſal or particular, is the ſcience of grammar *.

Written characters are the ſigns of words, or of articulate ſounds.

They are either verbal, or alphabetical.

Verbal characters are ſuch as ſtand for entire words.

Alphabetical are ſuch as ſtand for elementary ſounds, or modulations; and which being combined, conſtitute words.

Writing preſerves the memory of paſt tranſactions, of obſervation, and experience. It preſerves literary productions, and tends to improve and to extend the uſe of ſpeech.

* See Harris's Hermes.

CHAP.

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CHAP. II.

History of the Individual.

SECT. I.

General Arrangement.

THE history of the individual contains the following articles.

1. Conſciouſneſs.
2. Animal ſenſe and perception.
3. Obſervation.
4. Memory.
5. Imagination.
6. Abſtraction.
7. Reaſoning.
8. Foreſight.
9. Propenſity.
10. Sentiment.
11. Deſire.
12. Volition.

The

The firſt eight articles are commonly referred to the underſtanding; the remainder to the will.

SECT. II.

Of Conſciouſneſs.

THE mind is conſcious of itſelf, as acting or ſuffering, in all its operations and feelings.

It is conſcious of the laws of thought or reaſon, which are termed the *metaphyſical* or *geometrical axioms.*

Theſe axioms are the conditions on which all thought proceeds, and which need not be expreſſed, but for the ſake of order or method.

SECT. III.

Animal Senſe and Perception. *

SEnſation is obtained by means of corporeal organs; and is, for the moſt part, attended by an original or acquired perception of ſome external cauſe, or object of the perception.

The organs of ſenſe are commonly reduced to five heads:

Touch, Taſte, Smell, Hearing, and Seeing.

TOUCH.

The whole animal frame is in ſome degree an organ of touch.

The ſenſations of touch, or feel-

* See Reid's Inquiry into the human mind.

ing,

ing, are either pleaſant, painful, or indifferent.

The interior or ſubcutaneous parts, are ſenſible only to the pains which ariſe from hurts or diſorders.

The final cauſe appears to be, that in their ordinary and ſound ſtate, they ſhould require no attention; but in caſe of diſorders, that they ſhould give the alarm.

On the exterior ſurface of the body, harmleſs ſenſations are indifferent, but whatever hurts is painful.

Indifferent ſenſations are the indications of the mere contact of innocent bodies.

Painful ſenſations are indications of hurts or wounds.

Pleaſant ſenſations are the ſign of relief from what hurts or wounds; as of moderate warmth

ſucceeding to great cold, or the converſe.

Many indifferent ſenſations, in particular parts of the body, as in the hands, the tongue, &c. are indications of the intimate properties, and nice diſtinctions, of bodies; as of their figure, poliſh, hardneſs, ſoftneſs, as well as comparative heat or cold.

The perceptions of this ſenſe are, in ſome inſtances, original; in others, acquired.

The figure, hardneſs, ſoftneſs, heat, and cold, of bodies, are matter of original perception.

Many of their ſalutary or pernicious qualities are learned by experience, and are matter of acquired perception.

We ſometimes perceive the nature, as well as the exiſtence, of qualities; as of figure, hardneſs, ſoftneſs.

In

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In others, we perceive the exiſtence of the quality, but not its nature; as of heat and cold.

The firſt have been termed *primary*, the other, *ſecondary, qualities of bodies.*

The ſenſations by means of which we perceive primary qualities, are, for the moſt part, indifferent, and have no name.

The ſenſations by which we perceive ſecondary qualities, are, for the moſt part, either pleaſant or painful; are conſidered apart from the perception they bring; and frequently uſurp the name of the quality perceived, ſo as to occaſion a conſiderable ambiguity in language. Thus heat or cold, which are the names of certain unknown properties in bodies, are ſometimes underſtood of animal ſenſation or feeling.

The animal ſenſation can, in no caſe, have any reſemblance to the ſubject or quality perceived.

Its informations, therefore, are not like that we receive from the inſpection of a picture or image; but like that we receive by means of language, or other arbitrary ſigns.

In original perception, the ſign is affixed by nature, and the interpretation inſtinctive.

Our ſenſations are not fitted to furniſh us with the means of inveſtigation, and of proof, but with perceptions which precede all inveſtigation or proof.

The ſceptic, who affects to diſbelieve the informations of ſenſe, has the ſame perception with the dogmatiſt, who profeſſes to believe.

TASTE.

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TASTE.

The organ of taſte is placed in the tongue and palate.

Its ſenſations are, for the moſt part, either pleaſant or painful.

The qualities of bodies perceived by it are ſecondary, as already explained *.

The ſenſations of taſte become, after ſome experience, the indications, or ſigns, of what is pernicious or ſalutary in food, &c.

But the ſame ſubject is frequently known by ſenſations which differ greatly in reſpect to pleaſure or pain.

The ſenſation is ſometimes pleaſant, at other times painful, or indifferent, while the ſame object is ſtill perceived.

Thus under the influence of appetite, the taſte of food is plea-

* See p. 52. & 53.

ſant;

ſant; when the appetite is cloyed, the taſte is diſguſting or painful.

It is likewiſe oft-times not in any conſiderable degree either pleaſant or painful, or it is indifferent; yet in all thoſe caſes the object is ſtill perceived, and its qualities nicely diſtinguiſhed.

SMELL.

The organ of ſmell is placed within the noſtrils, near to the paſſage of the air in reſpiration.

There is a greater analogy between the ſenſations of ſmell and taſte, than between thoſe of any other two of our ſenſes.

They agree in giving a perception of ſecondary qualities; in enabling us, by the help of experience, to diſtinguiſh external ſubjects, and to recogniſe the ſame ſubject frequently, whilſt the quality of the ſenſation varies from pleaſant

pleaſant to painful or indifferent.

HEARING.

The organ of hearing is placed in the interior part of the ear.

The ſenſations of ſound, whether ſingle, or multiplied, and variouſly combined, are either pleaſant, painful, or indifferent.

The quality perceived is ſecondary, found, by inveſtigation, to be pulſes of the air, occaſioned by exploſions, or by the tremors of tenſe and elaſtic matter of any ſort.

Sounds are diverſified by their intenſity and muſical tone.

Tones being a natural language of ſentiment, are, by certain combinations, eaſily rendered pathetic.

Different

Different ſounds are, by experience, learned to be the ſigns or indications of different ſubjects, and of different movements.

SIGHT.

The organ of ſight is placed in the eye.

Its ſenſations are ſometimes pleaſant or painful, but for the moſt part indifferent; and therefore overlooked.

Of the qualities perceived by means of theſe ſenſations, ſome are primary, others ſecondary.

The original perception obtained by ſight, is that of the viſible appearance of things external. This appearance includes ſuperficial extenſion and figure, apparent magnitude, illumination, ſhade, and colour.

The

The acquired perception is that of the real dimenſions, figures, and diſtances of bodies.

In the uſe of this organ, there is a ſeries of ſigns and interpretations.

1. The viſible appearance is perceived by means of ſome ſenſation in the eye that is extremely ſlight, and never attended to.

2. Objects are perceived by the intervention of this appearance.

The ſame object is perceived under great varieties in the viſible appearance.

The ſolid dimenſions of bodies are underſtood from the diſpoſition of light and ſhade on the viſible ſurface.

The diſtances of known bodies are inferred from their apparent magnitude and diſtinctneſs.

The real magnitudes of bodies

at

at a known diſtance, are inferred from their apparent magnitudes.

This diſcernment of objects from their viſible appearance, is the reſult of obſervation: where we have no opportunity of greatly changing the place of our obſervations, ſo as to employ different ſenſes, as in the caſe of the celeſtial bodies, we have no ſuch diſcernment.

The perceptions of ſenſe are communicated to others by information or teſtimony.

SECT. IV.

Obſervation.

OBſervation is, the collecting, from conſciouſneſs, perception, or teſtimony, facts relating to

to the exiſting qualities and operations of things.

Facts become remarkable by their reference to ourſelves, or by their compariſon, ſimilitude, or contraſt, with each other.

Collections of facts conſtitute hiſtory, either deſcriptive or narrative.

Deſcriptive hiſtory is the detail of coexiſtent circumſtances and qualities.

Narrative hiſtory is the detail of ſucceſſive events.

SECT. V.

Memory.

MEmory is the recollection of ſubjects paſt.

It is caſual, or intentional.

It is caſual, when ſubjects or thoughts, by any connection of their own, recur to the mind.

It is intentional, when the mind, from deſign, recalls any ſubject or thought.

SECT. VI.

Imagination.

IMagination is the ſtating objects as preſent, and inveſted with all their qualities and circumſtanſtances, real or fictitious.

Objects imagined may be deſcribed, may excite ſentiment and paſſion, and are the ſole objects of deſire and averſion.

Hence imagination is the chief faculty employed in deſcription, invention, and perſuaſion, and in forming

forming the various opinions by which mankind are governed.

Theſe opinions, or imaginations, are confirmed by habit; and when erroneous, are not corrected even by experience.

Objects are imagined ſeparately or jointly.

In the ſeparate images of things, are conſidered their real or poſſible qualities and circumſtances.

In their joint images are conſidered their ſimilitude, analogy, or oppoſition.

Similitude conſiſts in the likeneſs of parts.

Analogy conſiſts in the ſimilarity of relation and proportion of parts.

Oppoſition conſiſts in the contrariety of qualities, and proportions, or relations.

Similitude leads to arrange-

ment, and the classing of objects together.

Analogy leads to the rhetorical figures of simile, metaphor, and allegory.

Opposition leads to distinctions, antitheses, and contrast.

SECT. VII.

Of Abstraction.

ABstraction is the stating of certain qualities and circumstances apart from other qualities and circumstances to which they are actually joined in nature.

Thus a quality is stated apart from its subject, or an operation is stated apart from the operator, and becomes an abstract.

A few qualities in which many subjects agree, are stated apart from

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from the qualities that diſtinguiſh thoſe ſubjects; and ſuch abſtractions are expreſſed in generic names.

By different abſtractions, the general claſſes or predicaments to which objects may be referred, are variouſly conceived.

Abſtraction is the reverſe of imagination: it is the foundation of general and comprehenſive reaſoning, not of deſcription or paſſion.

Men are ſometimes the dupes of their own abſtractions, and conſider thoſe things as ſeparate in nature which are only ſeparate in thought.

Too much abſtraction tends to diſqualify men for affairs. It is the habit of conſidering circumſtances apart; but, in affairs, all circumſtances come together, and none muſt be overlooked.

SECT. VIII.

Of Reaſoning.

REaſoning conſiſts of inveſtigation, arrangement, and argument.

Inveſtigation is the diſcovery of general rules, or of laws, from particular and various inſtances.

Inveſtigation is the foundation of theory.

Arrangement is the claſſing of objects together according to ſome relation they have in nature.

Relations are thoſe of ſimilitude, contiguity, cauſe, and effect.

Similitude and contiguity furniſh the arrangement of natural hiſtory:

The relation of cauſe and effect,

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fect, the arrangement of ſcience or theory.

The laws of nature, which deſcribe, in the moſt general terms, the operations of exiſting cauſes, comprehend, by a relation of ſimilitude, the phenomena which are the effects, or particular operations, of thoſe cauſes.

Argument is the uſe of reaſon to produce conviction.

Argument is taken, either *a priore*, or *a poſteriore*.

Argument *a priore*, proves or diſproves the fact from the law, or the effect from the cauſe.

Every argument of this ſort may be reduced to a perfect ſyllogiſm, conſiſting of three propoſitions: of which one announces the law, either negative or poſitive; another compares the law with the fact to be proved; and the third affirms or denies the fact,

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fact, from its conformity with, or oppoſition to the law.

Argument *a poſteriore*, proves or diſproves the rule, from the enumeration of particulars.

Every ſuch argument may be reduced to a ſyllogiſm, conſiſting of two propoſitions: one is induction or enumeration of facts; the other affirms or denies the law, from the concurrence, or want of concurrence, in the particulars brought to eſtabliſh it.

SECT. IX.

Of Foreſight.

FOreſight is the faculty of conjecturing what is to follow from the paſt or preſent.

It requires penetration and ſagacity: the firſt, to comprehend all

all the circumſtances of the caſe in queſtion; the ſecond, to perceive what is likely to follow from thoſe circumſtances.

Penetration and ſagacity are the foundations of good conduct, art, and ſkill.

SECT. X.

Of Propenſity.

MEN, like the other animals, are active, from original choice, and propenſity.

They delight in freedom and exerciſe; they pine under reſtraint, or in the abſence of objects fit to excite them.

The activity of man's nature conſiſts in propenſity, ſentiment, deſire, and volition.

Propenſities

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Propenſities have their effect prior to the experience of pleaſure or pain.

They are either animal or rational.

The animal propenſities are the appetites to food, ſleep, and the propagation of the ſpecies.

Theſe appetites are periodical or occaſional, and are intermitted when their ends are obtained.

The rational propenſities are, the care of ſelf-preſervation, the affections of parent and child, the affections of the ſexes, the affection to ſociety, and the deſire to excel.

Theſe, like animal appetites, give a direction to human nature prior to any experience of their gratifications.

But, contrary to the analogy of animal appetites and gratifications, they may continue to occupy habitually,

bitually, without ſatiety or diſguſt.

All affections of kindneſs are, in their own nature, pleaſant.

Having theſe natural propenſities, we ſtate objects under the predicaments of good or of evil as they are ſuppoſed conducive or oppoſite to the purpoſes of our propenſities.

Whatever is thought conducive to preſervation, is reckoned good.

Whatever is thought pernicious, is reckoned evil.

Whatever promotes the welfare of ſociety, or of any object beloved, is therefore ſuppoſed good.

What is pernicious, is ſuppoſed evil.

Whatever is thought in itſelf to conſtitute a perfection, or to give eminence, is ſuppoſed good.

Whatever is thought to conſtitute imperfection, or to ſink our comparative

comparative value, is ſuppoſed evil.

Hence the great influence of opinion on the external purſuits of men.

SECT. XI.

Of Sentiment *.

SEntiment is a ſtate of mind relative to what is thought to be good or evil.

Sentiments are pleaſant or painful.

The ſentiment ariſing from a ſuppoſed good attained, is pleaſant; from a ſuppoſed good miſſed or forfeited, is painful.

A ſuppoſed evil avoided, is pleaſant; incurred, is painful.

* See Theory of agreeable ſentiments.

The

The pleaſure in both theſe caſes is termed *Joy*.

The pain is termed *Sorrow*, or *Grief*.

A ſuppoſed good in expectation of being gained, is pleaſant; in expectation of being loſt, is painful.

The pleaſure in either of theſe two caſes is termed *Hope*.

The pain is termed *Fear*.

Thus all our ſentiments, or paſſions, may be referred to four general heads:

Joy, Grief, Hope, and Fear.

But there is a great variety in the ſentiments of joy and grief, of hope and fear, correſponding to the nature of the ſuppoſed good or evil, and of the propenſity by which we are directed towards it.

The ſentiments of thoſe who are occupied chiefly in their own preſervation, are, the ſenſe of ſafe-

ty and ſucceſs, or of danger and diſappointment.

The firſt may comprehend ſecurity, exultation, and inſolence; the ſecond, jealouſy, terror, and deſpair.

The moſt painful ſentiments of thoſe who are occupied chiefly by their regard to mankind, are alleviated by the pleaſures of affection, confidence, and good will.

The ſentiments of thoſe who are occupied chiefly with the conſideration of excellencies or defects in themſelves, or in others, are, on the one hand, reſpecting themſelves, and their own abſolute perfections or defects, ſelf-approbation, and elevation of mind; on the other hand, ſhame, remorſe, and dejection.

In reſpect to comparative advantages, and ſuperiority to other men, their ſentiments are, exultation,

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tion, vain-glory, inſolence, and contempt.

The ſentiments of men reſpecting real excellencies in others, are, eſteem, reſpect, and veneration.

Eſteem is a ſentiment of approbation tending to confidence.

Reſpect is a ſentiment of approbation tending to ſubmiſſion.

Veneration is a high degree of reſpect.

The ſentiments of men reſpecting defects are, contempt, ridicule, indignation, and rage.

Contempt is a ſentiment of diſapprobation, tending to indifference or neglect.

Ridicule is a ſentiment of diſapprobation, mixed with mirth or pleaſantry.

Men of wit ſometimes render the ſubjects of which they treat ridiculous.

Buffoons render themſelves ſo.

As the ſentiment of diſapprobation predominates, ridicule approaches to ſcorn.

As the ſentiment of pleaſantry predominates, it approaches to mirth, and may even be mixed with tenderneſs.

The ſcornful are rarely ſuſceptible of admiration or love.

Indignation is a ſentiment of diſapprobation, mixed with reſentment.

Rage is a ſentiment of diſapprobation, mixed with hatred.

The ſentiments of men reſpecting comparative advantages in others, differ according to the ſtate of their affections, and according as they ſtate a compariſon with themſelves, or with other men.

The ſuperiority of thoſe they love, compared to themſelves, produces deference and reſpect.

The ſuperiority of thoſe they hate,

hate, ſo compared, excites envy; of thoſe who are indifferent, excites humiliation, or is a mortification.

The ſuperiority of thoſe they love, compared to others, excites exultation; of thoſe they hate, compared to others, excites animoſity and regret.

SECT. XII.

Deſire and Averſion.

DEſire and averſion ariſe from opinion, founded in experience or fancy.

Mens deſires and averſions are various as their opinions.

The moſt common examples of ſettled or habitual deſire, are, ſenſuality, avarice, ambition, public ſpirit, *elevation of mind*, or

the desire of excellency and perfection.

These desires have a foundation in some natural propensity, and lead to the objects which, in our opinion, tend to fulfil the purpose of our original propensities.

Sensuality is founded in animal appetites; and arises from an opinion, or expectation, of good, in the means of their gratifications.

Avarice is founded in the care of self-preservation; and aims at security, by amassing and hoarding the means of subsistence.

Ambition is the desire to command; and arises from an opinion, that to have rank or power over other men, is to excel.

Public spirit is founded in benevolence: its object is indefinite, men, or intelligent natures, wherever they present themselves to our view or conception.

Elevation

Elevation of mind is founded in the love of perfections, and in the averſion to defects.

SECT. XIII.

Of Volition.

VOlition is the act of will in free determinations.

The determination is free where-ever it is voluntary.

The motives from which we chuſe, do not deſtroy our freedom; for to act from motives not forced upon us, to be willing, voluntary, and free, in any action, are ſynonymous terms.

INSTI-

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OF

MORAL PHILOSOPHY.

PART II.

Theory of Mind.

CHAP. I.

General Observations.

THE theory of mind is the knowledge of phyſical laws, collected from fact, and applicable to explain appearances.

It hath been ſaid, that the intellectual ſyſtem, as well as the material, hath its laws; but that the

the laws of the intellectual ſyſtem are not equally well obſerved *.

The term *law* is ambiguous.

It ſometimes ſignifies the fact, as it is regularly and invariably eſtabliſhed in the courſe of nature.

In this ſenſe it is employed by natural philoſophers †.

In this ſenſe chiefly the material ſyſtem is ſaid to have its laws.

And in this ſenſe every law muſt be ſtrictly obſerved; becauſe it is law only ſo far as it is obſerved. Gravitation is a law only becauſe all bodies actually gravitate.

But in this ſenſe, too, the intellectual ſyſtem hath its laws;

* Spirit of Laws, book 1.

† See Laws of nature, in the Introduction to every ſyſtem of mechanics.

for

for there are facts relating to the operations of mind which are fixed and invariable.

In this ſenſe, therefore, the laws of the intellectual ſyſtem are equally well obſerved with thoſe of the material.

The term *law*, however, has a farther ſignification, and means ſome rule of choice, or expreſſion of what is good.

In this ſenſe it is employed commonly by moraliſts and civilians.

In this ſenſe moſt commonly it is meant, that the intellectual ſyſtem hath its laws.

And in this ſenſe the law may ſubſiſt, without being ſtrictly obſerved: for it is law in conſequence of its rectitude, or of the authority from which it proceeds; not in conſequence of its being the fact.

But

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But although the more important laws of this ſort relate to the intellectual ſyſtem, yet there are laws of the ſame kind relating to the material ſyſtem.

Such are the expreſſions of what is required to elegance, beauty, or utility, in natural ſubjects; or of what is required to perfection in works of art.

Here the material, as well as intellectual ſyſtem, may depart from its laws.

In the vegetable and animal kingdoms, there are deformities, diſtortions, and diſeaſes, as there are in the intellectual kingdom follies, abſurdities, and crimes.

To avoid, as much as poſſible, theſe ambiguities, laws of the firſt ſort, whether relating to mind or matter, have been termed *phyſical laws*;

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laws; and laws of the ſecond ſort, *moral laws* *.

Common uſe will authoriſe this interpretation; although the uſe of theſe terms is by no means determined and preciſe: for frequently, whatever relates to matter, is ſaid to be phyſical; whatever relates to mind, is ſaid to be moral.

In conſequence of this vague uſe of the term *moral*, any theoretical queſtion relating to mind has been ſubſtituted for moral philoſophy; and ſpeculations of little moment have ſupplanted the ſtudy of what men ought to be, and of what they ought to wiſh, for themſelves, and for their country.

* See Introduction.

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CHAP. II.

Enumeration of Phyſical Laws.

SECT. I.

Laws of the Underſtanding.

THE hiſtory of the underſtanding may furniſh two principal rules, or phyſical laws.

The firſt relates to the perception obtained of what exiſts beyond ourſelves.

The ſecond, to the comprehenſion of ſubjects perceived.

FIRST LAW.

Perception is obtained by the intervention of media, no way re-

ſembling the ſubject of ſuch perception:

1. The medium of ſenſation.
2. The medium of ſigns.

Moſt theories of the human underſtanding proceed on a ſuppoſition, that all information is received in a manner analagous to the repreſentations given by means of images or pictures.

We are ſo accuſtomed to metaphor or allegory of this ſort, that we think it demonſtrable *a priore*, that there muſt be images, types, or reſemblances, of external ſubjects, in the brain, or in the mind, from which the mind receives information of the originals, and in comparing which its reaſoning concerning the originals conſiſts.

But when we compare the knowledge of any ſubject with the picture of a ſubject, we muſt be ſatisfied, that the whole language

guage transferred from one to the other is merely metaphorical.

Syſtems founded in metaphor, are commonly mere allegories, by which we are made to miſtake the interpretation of the allegory for an acceſſion of ſcience.

The ſenſation, by means of which we naturally perceive the exiſtence of external ſubjects, has no reſemblance to thoſe ſubjects.

The ſigns by which we naturally perceive the exiſtence and meaning of other minds, have no reſemblance to the things ſignified.

Yet we cannot refrain our perception in the one caſe, nor our interpretation in the other.

The general law of information then has two branches:

That which relates to the perception of material ſubjects:

And that which relates to the

interpretation of meaning and thought.

Second Law.

To comprehend any particular ſubject, is to know ſome general predicament or claſs to which it may be referred.

Thus to comprehend the nature of any particular being or quality, is to be able to refer it to ſome known ſpecies or claſs.

To comprehend any operation or phenomenon, is to be able to refer it to ſome eſtabliſhed rule, or known law of nature.

Thus we comprehend all the phenomena that can be referred to the laws of gravitation, coheſion, electricity, and ſo forth.

To make a new diſcovery, is either to inveſtigate ſome law, or to

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to point out ſome new application.

Thus Sir Iſaac Newton diſcovered the law of refraction, and applied it to the rainbow, and to the colours of natural bodies.

Dr Franklin applied the laws of electricity to lightning, and to the aurora borealis.

The laws of nature are the genera and ſpecies under which particular facts are ranged, or the predicaments to which they are referred.

Some predicaments have their generic names in every language, have been univerſally admitted, and are coeval with human thought.

Such are, ſubſtance, quality, quantity, number, perfection, defect, good, evil, time, place, &c.

Others are more arbitrary, and

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choſen to render human knowledge methodical and comprehenſive.

Such are the claſſes and orders of being employed in the method of different natural hiſtorians.

SECT. II.

Laws of the Will.

THE hiſtory of the human will may furniſh the three following general rules.

First Law.

Men naturally deſire whatever they think is uſeful to themſelves.

Under this title they deſire the means of ſubſiſtence, health, ſtrength, beauty, parts, temper, reſolution, &c.

This

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This is commonly termed *the law of ſelf-preſervation:* but ſo great is the variety of mens opinions, and ſuch the caprice of their paſſions, that they appear in ſome caſes to deſire what is deſtructive.

SECOND LAW.

Men naturally deſire the welfare of their fellow-creatures.

General calamities are matter of regret; general welfare is matter of joy.

This may be termed *the law of ſociety*; and is that which qualifies the individual to be a member of ſociety, inclines him to contribute to the general good, and intitles him to partake in it.

The reality of this law has been diſputed:

1. Becauſe

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1. Becauſe men do not generally act for public good.

2. Becauſe what they do of this kind, may be accounted for from other motives.

The actions of men are regulated, not by this law only, but by this combined with every other law of their nature.

If the law of ſelf-preſervation, for the moſt part, prevail, it does not follow, that the law of ſociety has no effect.

The external effect, or tendency, of every law, is diverſified in different circumſtances.

The general tendency of the law of gravitation is, to cauſe bodies to approach to each other; as the tendency of the law of ſociety is, to cauſe men to produce public good, or to abſtain from public harm.

But

But the external reſult is oppoſite in oppoſite circumſtances.

Heavy bodies are not always falling, nor ſocial natures always acting for the common good.

When bodies are falling, gravitation accelerates; when they are placed on a ſupport at reſt, it cauſes a preſſure; when they are thrown upwards, it can only retard; when they are moved obliquely, it turns their motion into a curve path, &c.

The analogy of this law may fully illuſtrate the law of ſociety.

This law, in ſome caſes, excites to beneficence; in other caſes, only retards miſchief. It increaſes our ardour in actions beneficial to our fellow-creatures; it reſtrains or diminiſhes our ardour in actions hurtful: it gives ſatisfaction in one caſe, and remorſe in another. And thus the operation

tion of the law of ſociety, like that of gravitation itſelf, is always real, though the external reſult is not always the ſame.

As to the motives from which men act for the good of their fellow-creatures, thoſe may be various in various inſtances; but no perſon can know, except in his own caſe, that there are no ſincere affections of benevolence and good-will.

THIRD LAW.

Men naturally deſire what conſtitutes excellence, and avoid what conſtitutes defect.

Different objects have their diſtinguiſhing qualities, and become, in the view of different animals, objects of deſire or averſion: but in the view of man, they are likewiſe,

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wiſe, in many caſes, objects of eſteem or contempt.

This is an ultimate fact in the nature of man, and not to be explained by any thing that is previouſly or better known.

Excellency, whether abſolute or comparative, is the ſupreme object of human deſire.

Riches, power, and even pleaſure, are coveted with extreme ardour only when they are ſuppoſed to beſtow eminence or rank.

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CHAP. III.

The foregoing laws applied in explaining the phenomena of Intereſt, Emulation, Pride, Vanity, Probity, and Moral Approbation.

SECT. I.

Of Intereſt.

INtereſt is the concern men take in things ſuppoſed uſeful or neceſſary to the purpoſes of animal life.

Things uſeful to animal life may be comprehended under the titles of *food*, *accommodation*, and *cloaths*.

But property in land, money, or effects, ſecures the poſſeſſion of ſuch

ſuch things, and is therefore a principal article of intereſt.

The ſtate of a man's intereſt fluctuates by his profits and his loſſes.

Men whoſe ruling paſſion is the deſire of profit, or the fear of loſs, are ſaid to be intereſted.

This paſſion is comprehended in the law of ſelf-preſervation, and is a partial application of this law, founded in an opinion of the great conſequence of external things.

Opinions, and their conſequences, are more or leſs prevalent, in proportion to the prevalence of circumſtances by which men are led to entertain ſuch opinions.

For this reaſon intereſtedneſs is very prevalent.

The opinion on which it is founded, ariſes from the following circumſtances.

1. The inſtinctive deſire of life.

2. The early prepoſſeſſion taken of the importance of ſenſual objects that ingroſs our firſt attention.

3. The continued care of eſtate or fortune that is neceſſary wherever property is eſtabliſhed.

4. The rank which riches are ſuppoſed to beſtow.

From this laſt conſideration, the law of eſtimation comes to be combined with the law of ſelf-preſervation, in accounting for the intereſted paſſions of men.

The intereſted conſiſt of two claſſes; the prodigal, and the avaricious.

The prodigal are commonly moſt rapacious, being urged by the deſire of enjoyment.

The avaricious are more cautious, being reſtrained by the fear of want.

The

The intereſted are frequently arraigned on the footing of ſelfiſhneſs, as if their fault conſiſted in a regard to themſelves, not in a miſtake of their own concerns.

They are ſometimes flattered on the footing of prudence or wiſdom, as if mere life, and the means of preſerving it, were the ſole object of human care.

Intereſt engages men in competitions, and ſtifles affection; it expoſes them to anxiety, jealouſy, and envy.

SECT. II.

Theory of Emulation.

EMulation is the deſire to excel other men, or the fear of being excelled by them.

It is comprehended in the law

of eſtimation; and ariſes from an opinion, that excellence is comparative, or ſubſiſts in things of mere comparative value.

Such are, riches, renown, or power.

The value of riches is comparative; for it conſiſts, not in any abſolute meaſure of wealth, but in poſſeſſing more than other men.

Renown conſiſts in being more talked of than others.

Power conſiſts in being able to command other men.

Happineſs, when well underſtood, is not a ſubject of emulation; for it having an abſolute value, the degrees poſſeſſed by one man, do not depreciate what is poſſeſſed by another.

Emulation, when directed to uſeful actions, has effects ſerviceable to mankind; but is itſelf an unhappy diſpoſition.

It

It is rarely unmixed with envy and jealouſy; frequently it prevents affection, where affection is moſt due.

The emulous are not ſatisfied with any attainment, while others poſſeſs an equal, or a ſuperior, meaſure, of the ſame advantage.

The object of Cæſar's deſire was not greatneſs, or goodneſs; but to be the firſt in reſpect to thoſe articles which the vulgar admired; the firſt in a village, rather than the ſecond at Rome.

The emulous are enemies to each other, and to men of ſuperior reputation. They are for the moſt part, vigilant, courageous, and vehement; indulgent to thoſe who are confeſſedly inferior, but malicious to thoſe who are equal, or ſuperior, in conſideration to themſelves.

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They commonly prefer mean company in which they can aſſume a ſuperiority, to better in which they muſt ſubmit to equality.

SECT. III.

Of Pride.

PRide appears in neglect, inattention, contempt, and arrogance.

It is founded therefore in a mean opinion of other men.

It is comprehended in the law of eſtimation; for it is in conſequence of this law that men either admire or contemn.

Pride, or contemptuouſneſs, is inconſiſtent with affection, candour, or any regard to the rights of mankind.

The

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The desire of perfection, and even the love of virtue, have been confounded with pride.

This abuse sometimes proceeds from inattention to propriety of language.

Sometimes from affectation of figurative speech; as when we say, *decent pride*, *noble pride*, &c. Here it implies contempt; but, in a good sense, the contempt of what is unworthy.

At other times this confusion of words is affected, in order to favour a system; as when we would depreciate virtue, or disprove its reality, by speaking of it in terms which are commonly taken in a bad sense *.

Pride is connected with the desire of perfection, only so far as it

* Mandeville's Works.

is

is a misapplication and abuse of it; substituting the meanness of others for elevation in ourselves.

It is ridiculous to attempt confounding the love of virtue with pride: their tendencies are opposite.

Virtue is a respect for the rights of men, and esteem of what tends to the good of mankind.

Pride is a disrespect for the rights of men, and contempt of mankind.

SECT. IV.

Of Vanity.

VAnity is a conceit of personal importance, joined to a perpetual desire of admiration.

Men are said to be vain of what they suppose constitutes their importance,

portance, as of their perſons, fortune, equipage, talents, and adventures.

Vanity is comprehended in the law of eſtimation; for it ſuppoſes the diſtinction of excellent and mean, however miſunderſtood.

It leads to the affectation of accompliſhments and advantages which are not real, or to the oſtentation of real ones.

The vain are capable of great efforts of courage and reſolution, when ſupported by public opinion, and when acting in public view; but without this ſupport, are feeble and irreſolute.

The attention they pay to other men not proceeding from the heart, but from the deſire of conſequence and applauſe, they always fail where the fruits or effects of real affection are expected.

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SECT. V.

Of Probity.

MEN who regard the rights, and feel for the ſufferings, of others; who are ever ready to do acts of kindneſs; who are faithful and true to the expectations they raiſe, — are ſaid to have probity.

Probity implies the love of mankind, founded in a temper that is compaſſionate, candid, and liberal.

It is comprehended therefore in the law of ſociety.

Probity may be underſtood to conſtitute an excellency, but cannot be the foundation of pride or contemptuouſneſs.

It may be underſtood to merit applauſe, but is directed by affection,

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tion, not by the desire of admiration or attention.

Men of probity prefer integrity to any other kind of supposed excellency; but frequently have a modest opinion of their own merits.

SECT. VI.

Of Moral Approbation in general.

MOral approbation is the judgement formed of characters and actions, as being excellent or just.

It is opposed to disapprobation or blame.

The apprehension of excellence, or defect, in other subjects, as of beauty or deformity in merely animal or material natures, is accompanied with simple emotions of

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of admiration or contempt: but the apprehenſion of excellence or defect in ourſelves, is accompanied with elation of mind, ſhame, and remorſe; in others, with complacency, veneration, love, pity, indignation, and ſcorn.

Men, fond of paradox, have queſtioned the reality of moral diſtinctions: but expreſſions of praiſe and blame in every language, the importance of mens actions to mankind, the oppoſite nature of diſpoſitions that form the characters of men, the moſt vehement ſentiments of the human heart, which refer to this ſubject,—ſhow, that the diſtinction of moral good and evil is real, and univerſally acknowledged.

In treating of moral approbation, four queſtions may be ſeparately ſtated.

1. What

1. What do men, for the moſt part, approve or blame?

2. By what principle, or conſideration, are they directed, in particular caſes, to beſtow their approbations or cenſures?

3. What is the proper ſubject of approbation or cenſure?

4. What is the rule or principle by which men ought to judge of moral characters?

The two firſt queſtions are phyſical, and belong to this place; the two laſt are moral, and their anſwer will be comprehended in the firſt or moſt general laws of morality.

The ſubject of morality has been greatly perplexed by the blending of theſe queſtions together.

The actual errors and corruptions of men, have been muſtered up as ſo many proofs, that there is

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nothing which men ought to eſteem or deſire.

In phyſical queſtions, we attend to the fact; in moral queſtions, to what is good or evil. The fact, however well eſtabliſhed, and however univerſal, does not preclude us from conceiving and chuſing what is better.

If all men were actuated by intereſt, emulation, pride, or vanity, it would not follow, that probity is no object of eſteem or deſire. When we are told, therefore, that the apparent candour and benevolence of ordinary men has no reality; that their courage is anger; and their temperance formality, or affectation, — we may aſk, whether theſe allegations are meant as a ſtate of facts merely, or as examples of what men ought to be? The facts may be true; but to chuſe a pattern

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tern confeſſedly bad, would be abſurd.

SECT. VII.

Of the Object of Moral Approbation.

THE object of moral approbation, is either ſome diſpoſition of the mind, or ſome external action.

Probity is the moſt approved diſpoſition; and the external expreſſions of probity, the moſt approved actions.

Theſe conſtitute the whole, or the moſt eſſential part, of virtue.

Other ſubjects may be admired or contemned; but theſe alone are the ſubjects of moral approbation.

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SECT. VIII.

Of the Principle of Moral Approbation.

MOral approbation is comprehended in the law of eſtimation; and is indeed the principal fact from which we infer the reality of this law; as the vertical preſſure and fall of bodies are the principal facts from which, in mechanics, we infer the law of gravitation.

Other deſires or affections may lead us variouſly to beſtow our eſteem or contempt, but none other will account for our having eſteem and contempt to beſtow.

According to this law, men refer the qualities and exertions of their own nature, together with many

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many other particulars, to the oppoſite predicaments of excellency and defect.

Yet in this they are not led by any inſtinctive or invariable rule: they differ in their choice of characters, and beſtow their eſteem on different ſubjects.

One man admired Cato; another admired Cæſar.

The affections and deſires of men, though different from approbation or eſteem, yet warp their judgements, and determine their opinions.

The ambitious and intereſted ſeldom admire what is adverſe to their own deſigns.

Cæſar wrote an invective againſt the memory of Cato; and though this, by others, was thought ridiculous *, yet it is probable that

* Vid. Cicero Epiſt. to Atticus, book 12. ep. 45.

he himſelf was ſincere, and really felt the zeal of Cato for the preſervation of the republic, as matter of diſſervice and demerit to himſelf.

Men are led, by the prepoſſeſſions of cuſtom, or by ſuperſtition, to approve or condemn mere external rites and obſervances.

They are led by intereſt, or ambition, to approve of actions favourable to their own deſigns.

They are led by benevolence to approve of qualities that fit men to procure the good of mankind.

So far as the merit, or moral excellence, of a man conſiſts in ſuch qualities, we may venture to affirm, that benevolence, or the law of ſociety, combined with the law of eſtimation, is the principle of moral approbation *; and that

* Vid. Lord Shaftſbury's Inquiry into Virtue.

to

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to beſtow our eſteem on virtue, is to love mankind.

Syſtems have differed chiefly by deriving our choice of actions and characters, ſome from the law of ſelf-preſervation, and others from the law of ſociety *: but the fact is, that the laws of ſelf-preſervation, and of ſociety, when well underſtood, coincide in all their tendencies and applications.

Man is by nature a member of ſociety; his ſafety, and his enjoyment, require that he ſhould be preſerved what he is by nature; his perfection conſiſts in the excellency or meaſure of his natural abilities and diſpoſitions, or, in other words, it conſiſts in his being an excellent part of the ſyſtem to which he belongs. So that the effect to mankind ſhould

* See Smith's Theory of Moral Sentiments.

be

be the ſame, whether the individual means to preſerve himſelf, or to preſerve his community: with either intention he muſt cheriſh the love of mankind, as the moſt valuable part of his character. As this is the foundation of probity, it is that which leads men to give to probity, as ſuch, the preference to every other diſpoſition or habit of mind *.

* Eſſay on the Hiſtory of Civil Society, part 1. ſect. 6.

CHAP.

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CHAP. IV.

Of the nature and future prospects of the Human Soul.

SECT. I.

Of the Immateriality of the Soul.*

THE nature of man has been universally considered as mixed, or composed of an animal and intellectual part, of body and mind.

Those functions which are referred to corporeal organs, belong to the animal nature; those which are not referred to any corporeal

* See Baxter on the Immateriality of the Soul

organ,

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organ, belong to the intellectual nature.

Man, in the reſult of his animal nature, differs from the brutes only in the degree or manner of what he exhibits; but in that of his intellectual nature, he differs totally, and in kind.

Being deſtined to act from obſervation and experience, not from ſpecial inſtinct, he is, when ignorant, apparently inferior in artifice and power to the other animals; but when knowing, greatly ſuperior.

That by which he excels other animals, is termed *his mind*, and has been univerſally diſtinguiſhed from *body*.

The properties of mind have no analogy to thoſe of matter: properties of the one are even oppoſite and contradictory to properties of the other.

Matter

Matter is diviſible and inert; mind is indiviſible and active.

What are called *faculties of mind*, are its active powers.

They are not diſtinct parts of a complicated nature, but abſtractions, under which the operations of mind are claſſed.

SECT. II.

Of the Immortality of the Soul.

EVery queſtion relating to a future ſtate, muſt be ſolved, from the nature of the ſoul, from the ſtate of the fact at death, or from principles of religion.

The nature of the ſoul being indiviſible, or not ſubject to a diſſolution of parts, and annihilation being unknown in the order of

of nature, it follows, that the ſoul is phyſically immortal.

The fact at death is, that the body ceaſes to be animated, or to give ſigns of the preſence of mind: but mind being of a different nature, may exiſt apart.

No argument can be drawn from principles of religion, until theſe principles be conſidered.

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INSTITUTES OF MORAL PHILOSOPHY.

PART III.

Of the Knowledge of God.

CHAP. I.

Of the Being of God *.

SECT. I.

Of the Univerſality of this Belief.

THE belief of the exiſtence of God has been univerſal.

The cavils of ſceptics do not de-

* See Ray's Wiſdom of God in the creation. Sermons at Boyle's lectures.

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rogate from the univerſality of this belief, no more than like cavils derogate from the univerſality of the perception men have of the exiſtence of matter; for this likewiſe has been queſtioned.

This belief does not imply any adequate notion of the Supreme Being. Men, for the moſt part, have entertained notions on this ſubject, unworthy even of human reaſon.

But the belief that an artiſt, or author, exiſts, is conſiſtent with mean and improper notions of his capacity and intentions.

The belief that Homer compoſed the Iliad, is compatible with inadequate notions of that poet's genius.

The belief that books read at ſchool were compoſed by men, is conſiſtent with a notion, that even the

the claſſics were written for the uſe of children.

SECT. II.

Of the Foundations of this Belief.

THE belief of God being univerſal, cannot depend on circumſtances peculiar to any age or nation, but muſt be the reſult of human nature, or the ſuggeſtion of circumſtances that occur in every place and age.

In the nature of man, there is a perception of cauſes from the appearance of effects, and of deſign from the concurrence of means to an end.

Sceptics have not denied the reality of theſe perceptions; they have rather complained of them,

as the foundation of general and vulgar errors.

But natural perceptions are the foundations of all our knowledge. This is the foundation of what we know from ſenſation, from teſtimony, and from interpretation.

In any of theſe caſes, we can aſſign no reaſon for our belief, but that we are ſo diſpoſed by our nature.

No argument is required to prove, nor can argument have any effect to refute, where nature has determined that we ſhall continue to believe.

No one can refrain believing, that the eye was made to ſee, the ear to hear; that the wing was made for the air, the fin for the water, the foot for the ground; and ſo forth.

The perception of an end or intention

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intention in the works of men, comprehends the belief of an artiſt. The perception of end or intention in the works of nature, comprehends the belief of God.

Nature preſents final cauſes where-ever our knowledge extends.

Final cauſes may be conſidered as the language in which the exiſtence of God is revealed to man.

In this language the ſign is natural, and the interpretation inſtinctive.

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CHAP. II.

Of the Attributes of God.

SECT. I.

Of theſe Attributes in general.

THE attributes of God are characters of the Supreme Being ſuggeſted by his works.

They may be referred to five heads; Unity, Power, Wiſdom, Goodneſs, and Juſtice.

SECT.

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SECT. II.

The Unity of God.

THE perception of final cauſes implies the belief only of one God.

The notion of a plurality of gods is a corruption.

Different nations ſeparately formed their notions of the Deity. On comparing theſe notions, they did not endeavour to reconcile them to the belief of one ſupreme being; they formed a liſt compoſed of many gods, having their different attributes and ſeparate provinces in nature.

SECT.

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SECT. III.

Of Power.

POwer is the attribute of the firſt cauſe; and in the creator of all things, cannot be circumſcribed by any thing that exiſts.

SECT. IV.

Of Wiſdom.

WIſdom is the attribute of intelligence; and the belief of wiſdom in the author of nature, is implied in the belief of final cauſes.

The wiſdom of God comprehends

hends the knowledge of every nature, of the mutual relations and dependencies of different natures, and of what is beſt for each, and for the whole.

SECT. V.

The Goodneſs of God.

THIS is the attribute of the creator and preſerver of all things.

The proofs of goodneſs are,

1. The creating of ſenſitive and rational beings.

2. The meaſures of good which they are made to enjoy.

3. The order eſtabliſhed for their preſervation.

Without the firſt, there would be no object on which goodneſs could exert itſelf.

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And the numbers of ſuch objects, as well as the enjoyments they are made to receive, are proofs of goodneſs in the firſt cauſe.

2. What their numbers or enjoyments, cannot be known to us; but the order and tendency of what we know, leads to the belief of univerſal good.

The lot of man is mixed, but his nature likewiſe is fitted to a mixed ſcene.

He complains of evil in his external circumſtances, or in his own nature and conduct.

The firſt ſubject of complaint is termed *phyſical evil*; the ſecond, *moral*.

His complaints of phyſical evil are not ſymptoms of abſolute evil in nature, but the ſymptoms of an active nature in himſelf properly

perly placed, and having proper excitements to exert its power.

A ſcene in which there were no apparent evils to be corrected, or, what is equivalent, no acceſſion of good to be gained, would be a ſcene of inaction, adverſe to the nature of man.

Or, in other words, a being that perceived no evil, or had no want, could have no principle of activity.

Man, by being employed as an active power in the order of nature, is not made to forego his own happineſs.

His happineſs does not depend on the meaſure of conveniency he enjoys, but on the part he acts; not on his ſafety, but on the degree of courage he poſſeſſes; not on what he gains for himſelf or

others,

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others, but on the degree of ardour and affection he exerts.

Complaints of moral evil are the ſymptoms of a progreſſive or improving nature.

A being that perceived no moral evil, or no defect, could have no principle of improvement.

To remove the complaints of moral evil, it is neceſſary that men were either freed of all imperfections, or rendered inſenſible of the imperfections they have.

The firſt is impoſſible: Men muſt have the imperfections of created nature.

What is the leaſt poſſible meaſure of theſe imperfections, we know not.

But man, imperfect as he is, is not a blemiſh in nature.

He has a pungent ſenſe of his own errors and defects. This is the

the ſource of his complaints, and of his improvements, and is a beauty in his nature.

He is a voluntary agent, deſtined to act under the following wiſe reſtraint:

That his hurtful diſpoſitions are painful to himſelf, and his beneficial diſpoſitions are pleaſant.

The ſuffering, as well as the enjoyment, in this caſe, is a proof of beneficence in the power that inflicts it.

3. Every part, in the order of nature, is calculated for the preſervation of the whole.

Things the moſt remote, are made to concur to the ſame ſalutary purpoſes.

The order of the planetary ſyſtem is calculated for the preſervation of every being that occupies any part of this ſyſtem.

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The pains, as well as the pleaſures, of living and ſenſitive creatures, tend to their preſervation.

The order of nature is preſerved by ſucceſſion, not by perpetuity of life: and whilſt the individual is periſhing, the ſpecies of every animal is ſafe, and the ſyſtem of nature is ſecured from decay.

SECT. VI.

Of the Juſtice of God.

JUſtice is the reſult of wiſdom and goodneſs.

Juſtice is goodneſs impartial and univerſal, rendering every part ſubſervient to the good of the whole, and calculating the whole for the preſervation of its parts; but precluding every part from

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from any enjoyment in what is pernicious to the whole.

The pains and pleaſures incident to man's nature, are diſtributed agreeably to this rule of juſtice.

For to ſum up the whole, benevolence is always pleaſant, malice is always painful.

CHAP. III.

Of the belief of the Immortality of the Human Soul, as founded in Principles of Religion.

CONtrary to the appearances at death, the human ſoul has been generally ſuppoſed to ſurvive its ſeparation from the body, and to be reſerved to a future ſtate of rewards and puniſhments.

This apprehenſion is agreeable

to the moſt rational notions of the goodneſs and juſtice of God.

That goodneſs which diſpoſed the Almighty to create, may likewiſe diſpoſe him for ever to preſerve his intelligent creatures.

There is a continual creation of rational as well as animal natures.

But animal natures are certainly extinguiſhed; why not rational?

The firſt is neceſſary. The world would be overſtocked with animals, if generations did not die to make way for each other.

But the world of ſpirits may, without inconvenience, increaſe for ever.

The deſire of immortality is inſtinctive, and is a reaſonable intimation of what is intended by the author of this deſire.

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The progreſs of man's intelligent nature may be continued beyond the attainments of this life.

The government of God is righteous; but man's inſtinctive deſire of diſtributive juſtice is not fulfilled in this life. Hence the univerſal belief, that wicked men are to receive additional puniſhments, and good men additional rewards, in a future ſtate.

"Diverſo itinere, malos a bonis "loca tetra, inculta, fœda, at- "que formidoloſa, habere *."

* Cato, in Saluſt's Hiſt. Cat. conſpiracy.

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INSTITUTES OF MORAL PHILOSOPHY.

PART IV.

Of Moral Laws, and their moſt general Applications.

CHAP. I.

Definitions.

MORAL law, as diſtinguiſhed from phyſical law, is any general expreſſion of what ought to be.

In this ſenſe, the rules of art, the canons of beauty and propriety,

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ty, relating to any ſubject whatever, are to be claſſed with moral laws *.

Moral law, as referred to intelligent natures, is any general expreſſion of what is good.

It is the characteriſtic of intelligent beings, to act from opinion, and to chuſe what, in their opinion, is beſt.

To act from determinate inſtinct, is the characteriſtic of mere animals.

To act without object or opinion, is inſanity or madneſs.

Hence the nature of what is good, where-ever apprehended or expreſſed, implies an obligation to determine the choice of every rational being to which it refers.

Moral laws may be conſidered under different aſpects, and diſtinguiſhed by different titles.

* See Hutcheſon of the Ideas of Beauty and Virtue.

Conſidered

Conſidered in reſpect to their ſource, they may be diſtinguiſhed as original, or natural, and conventional, or adventitious.

Conſidered in reſpect to their ſubject, they may be diſtinguiſhed as laws of religion, or of ſociety; as laws of peace, or of war; as laws political, civil, or criminal.

Conſidered in reſpect to the perſons to whom they are applicable, they are laws of nations, or the laws of particular ſtates.

Moral philoſophy is the knowledge and application of the law of nature, or the original law of mankind.

This law is applicable to every perſon, and to every ſubject.

This law comprehends the obligations of convention.

The firſt or fundamental law of nature, relative to mankind,

is

is an expreſſion of the greateſt good competent to man's nature.

Subſequent laws are branches and applications of this.

CHAP. II.

Of Good and Evil in general.

GOod and evil imply enjoyment and ſuffering, conſequently have an excluſive reference to ſentient and intelligent beings.

The ſuppoſed cauſe of enjoyment is an object of deſire.

The ſuppoſed cauſe of ſuffering is an object of averſion.

What is not ſuppoſed to be the cauſe of either is indifferent.

Some things owe their effects entirely to the opinion that is entertained,

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tertained, or to the uſe that is made, of them.

With reſpect to theſe things, certain opinions, and a certain uſe, are good; other opinions, and a different uſe, are evil; and the things themſelves are occaſionally, but not always, to be choſen.

Other things contain the effect and the uſe in their own nature.

Of theſe things the preſence is always good, or always evil; and they are not occaſionally, but invariably, to be choſen or rejected.

So important a difference, merits the cleareſt and moſt ſtriking diſtinction that language can furniſh.

Diſputes among the ancient philoſophers, related chiefly to the manner of ſtating this diſtinction *.

* See Cicero De Finibus.

Socrates

Socrates always ſtated it in the ſtrongeſt terms *.

According to him, *they who prayed for riches, long life, &c. ſeemed to deſire a throw of the dice, or the chance of a battle.*

The Peripatetics claſſed every thing that was by its nature, or uſe, deſireable, under the general predicament of *good.*

And every thing, by its nature or abuſe, to be ſhunned, under the oppoſite predicament of *evil.*

The Stoics maintained, that nothing was to be claſſed under the predicament of *good*, but what was at all times invariably to be choſen.

That nothing † was to be claſſed under the predicament of *evil*,

* See Memorabilia of Xenophon.

† See Epictetus and Antoninus.

but

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but what was at all times invariably to be ſhunned, or rejected:

That to call that good which ought at any time to be rejected, or that evil which ought at any time to be choſen, was not only abſurd in terms, but tended to weaken the reſolution with which a man ought always to make his choice.

The Epicureans ſubſtituted the term *pleaſure* for *good*; intimating, that whatever was pleaſant was therefore good.

CHAP.

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CHAP. III.

Of the Objects of Desire or Aversion, and their comparative Importance.

SECT. I.

General Division.

THE objects which men, governed by the physical laws of self-preservation, of society, or of estimation, either desire or shun *, may be comprehended under the following titles.

Life and Death, Pleasure and Pain, Excellence and Defect, Happiness and Misery.

* See Part 2. ch. 1.

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Other objects are either desired or shunned on account of these.

Under each title the object of aversion is opposed to the object of desire; they are in some cases mutual negations of each other: For this reason, when we shall have explained or specified the one, it will not be always necessary to specify or to explain the other.

SECT. II.

Of Life and Death.

LIfe, in the most extensive sense, is the existence of any vegetable, animal, or intellectual nature, or the combination of two or more such natures together.

Vegetable and animal life require

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quire organization, and terminate together with the functions of organized parts. Intellectual life terminates with the existence of mind. Mixed life terminates by the separation of mind and body.

The right employment of life, and the proper means of preserving it, are good; the abuse is evil.

There are times in which it is good to preserve life, and times in which it is good to resign it.

SECT. III.

Of Pleasure and Pain.

PLeasure is enjoyment considered abstractly; that is, without regard to its kind, measure, or comparative importance.

Enjoyments or sufferings being various in respect to kind and

measure, and being frequently but alternatives of which only one can be gained or avoided at a time, they must be compared, in order to determine our choice.

They may be referred to two principal classes:

1. Animal.
2. Intellectual.

Animal enjoyments are the gratifications of sense or appetite.

They arise with the least mixture of inconvenience, from the proper use of things salutary to animal life; and are, in their final cause, subsidiary to the desire of life, or to the law of self-preservation.

They keep pace with the returns of appetite, or the exigencies of nature, and cannot be rendered continual.

Animal sufferings arise from circumstances or causes any way hurtful to animal life: they are sometimes

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ſometimes continual; and are ſubſidiary to the fear of death.

Intellectual enjoyments and ſufferings are of three principal kinds:

1. Opinion.
2. Affection.
3. Exerciſe.

Enjoyments or ſufferings of opinion are, the joys or griefs, hopes or fears, which accompany the preſence or abſence of things whoſe effect is derived from opinion.

The things whoſe effects depend on opinion, may be known by the diverſity of effect on perſons who have different opinions concerning them.

A certain meaſure of eſtate, rank, or accommodation, is to one man matter of joy, to another matter of grief.

The proſpect of a certain event is, to one perſon, dreadful; to ano-

ther, agreeable; and to a third, indifferent.

Enjoyments or ſufferings of affection, are conſtituted by the oppoſite natures of love and hatred.

Love is always pleaſant, though ſometimes mixed with affliction or regret.

Hatred is always painful, tho' ſometimes mixed with exultation.

The pleaſures of exerciſe ariſe from occupation of mind or body.

They are commonly termed *amuſement*.

Amuſements of every ſort are bounded by laſſitude, or the deſire of change.

Every animal or intelligent nature is active; but natures are more or leſs active, in proportion to the variety, and to the continuance, of their occupations.

Man is more active than any other known nature.

Animal

Animal enjoyments or ſufferings in general, are ſubordinate to the intellectual.

Senſual enjoyments depend much on opinion.

They are marred by an opinion of evil in being addicted to them.

They need the conſideration of innocence, the accompanyments of elegance, and of ſociety or paſſion, to give them the appearance of objects that merit a continual regard.

The reliſh for them is entirely ſuſpended by any vehement affection, or by any active engagement.

Attempts to render them continual, impair the faculties of the mind, and produce ſottiſhneſs.

What is commonly termed *a life of ſenſuality*, is either a ſtate of great inſenſibility, or of frivolous paſtime, ariſing from gratifi-

gratifications of fancy, or at beſt from the entertainment of inſignificant converſation.

Bodily pain is likewiſe under the influence of opinion.

The cowardly, who fear pain extremely, ſuffer much.

The brave, or the reſolute, who do not fear it, ſuffer leſs.

Pain is ſuſpended by vehement affections and active engagements.

Bodily pain may be prolonged to a greater meaſure than any bodily pleaſure; and ſometimes actually ends only in death.

Suitably to its final cauſe, the pain remains while the attack on animal life continues; and it increaſes as the danger approaches.

But death, and its cauſes, are neceſſary: the improper fear of them is evil; it diminiſhes every enjoyment, and imbitters every ſuffering.

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The affections, and active engagements, that have been obſerved to ſuſpend or to diminiſh ſenſual enjoyments or ſufferings, may be rendered continual, or ſo frequent as to occupy human life.

Men of ardent and active diſpoſitions, give perpetual examples of this fact.

The pleaſures of opinion, of affection, and exerciſe, however, are not equal among themſelves.

Falſe opinions may be occaſionally and tranſiently productive of hope and joy; but they are, ſooner or later, neceſſarily productive of diſappointment, grief, and fear.

True or juſt opinions are naturally or neceſſarily productive of ſucceſs and joy. And this, according to Epictetus, was the bleſſing of God conferred on man: *That whoever knew, and choſe,*

choſe, his true good, could not be hindered or diſappointed.

Affections are pleaſant in proportion as they are diffuſed or extenſive.

Occaſions of grief or regret are leſs frequent in the conſideration of general good, than in that of partial intereſts.

For this reaſon, the affection of a mind enlightened to conceive what is the object and what the efficacy of God's providence, is, of all others, moſt pleaſant, and approaches moſt to an entire exemption from pain.

This affection is a capacity of receiving enjoyment from the conſideration of every being that exiſts, and of every event that happens, in the creation of God.

Men are beſt amuſed with exerciſes that engage them moſt, that

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that awaken their affections, and occupy their talents.

For this reaſon, the more ſerious and urgent occupations are to be preferred to the more ſlight, and apparently pleaſant.

It appears, upon the whole, that juſt opinions, benevolent affections, and ſerious engagements, are the preferable enjoyments of human nature.

SECT. IV.

Of Excellence and Defect.

THE excellence of a man is probity, ſupported by wiſdom, temperance, and fortitude.

Probity is the love of mankind.

Wiſdom is the knowledge and choice of what is good.

Tempe-

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Temperance is the power to abſtain from mean pleaſures, in behalf of what is more valuable.

Fortitude is the power of ſurmounting difficulties, or of braving dangers, in behalf of worthy objects, or in the courſe of worthy engagements.

Theſe perſonal qualities conſtitute the virtue or excellency of a man; and are in fact his ſtate of greateſt enjoyment or leaſt ſuffering.

SECT.

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SECT. V.

Of Happineſs.

ACcording to vulgar opinion, men are to be counted happy or miſerable, for having their deſires gratified or diſappointed.

But if happineſs be the ſtate of greateſt enjoyment of which human nature is ſuſceptible, it will follow in many caſes, that a perſon is not to be deemed happy for having his deſire gratified, but wretched for having ſuch a deſire.

The malicious is not to be deemed happy for the gratifications of his malice, but unhappy for having this paſſion.

The fool is not to be deemed happy for poſſeſſing what he admires, but unhappy for admiring what is of no value.

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The intemperate is not to be deemed happy for enjoying a mean pleaſure, but childiſh and unhappy, for ſuſpending the higher enjoyments of his nature for the ſake of what is inferior.

The coward is not to be deemed happy for having eſcaped a danger, but wretched for being ſubject to fear.

If a mind, benevolent, wiſe, and courageous, have the higheſt enjoyments and leaſt ſuffering, this alone is to be accounted happy *.

Theſe qualities contain in themſelves the uſe and the value for which they are deſirable.

Men who have them not, may entertain different opinions concerning them; but they who have them, muſt know that they are happy.

They are to be choſen in pre-

* See Theory of agreeable ſentiments.

ference

ference to pleaſure of any other kind, and at the hazard of any ſuffering, from which they are not exempted. This is what Epictetus and Antoninus meant, by ſaying, "That virtue is the ſole "good." Unhappy is he who underſtands their meaning, and yet can treat it with ſcorn.

SECT. VI.

General Inferences.

IT appears, that the definitions of virtue and of happineſs are the ſame; and it follows, that happineſs is a perſonal quality, not an attribute of external condition.

Mere life conſtitutes neither happineſs nor miſery, but is the ſuppoſition on which men are ſuſceptible of either.

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Pleaſure is a term too vague to be ſubſtituted for happineſs.

This ſubſtitution has a tendency to vindicate indiſcriminate voluptuouſneſs, if not to encourage ſenſuality, the ſort of pleaſure with which men are ſooneſt acquainted.

If pleaſure be the only object propoſed, it muſt lead to ſenſuality; for all our enjoyments, beſides thoſe of ſenſe, ariſe from our having ſome purſuit or affection, to which pleaſure is not the object, but an acceſſion. Thus the pleaſures of hunting ariſe from eagerneſs to ſeize the prey; the pleaſures of occupation ariſe from the ardour with which we purſue our object; the pleaſures of affection ariſe from the regard we have for other men; and the pleaſure of good actions ariſes from the eſteem of virtue. If pleaſure be our

our ſole object, we muſt forego it in all theſe inſtances.

With reſpect to pleaſure, it may be ſaid, that all good is pleaſant, but that all pleaſure is not good; for any pleaſure that excludes a greater, or that brings an overbalance of pain, is evil.

The love of what is excellent, is a ſure guide to what is pleaſant; but the deſire of pleaſure is not a ſure guide to what is excellent.

Things in general may be referred to one of three claſſes:

Good, Evil, and Indifferent.

The claſſing of objects is, in ſome meaſure, diſcretionary: but reaſon requires, that every claſs be diſtinguiſhed by circumſtances that merit attention; and where happineſs or miſery are in queſtion, that every ſubject of choice or averſion be placed in the ſtrongeſt light.

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CHAP. IV.

Of the degrees of Happineſs, and the means of Improvement.

SECT. I.

Of the actual Attainments of Men.

MEN conceive perfection, but are capable only of improvement.

Their diſpoſitions are various, and their forces unequal. It is impoſſible to aſcertain the limits of their progreſs.

Philoſophers have been cenſured as recommending a perfection too high for human nature:

Would it therefore be reaſonable to recommend defects?

It

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It is the object of human reason, to distinguish perfections from defects; and it is the tendency of human nature, to make some progress in all its pursuits, whether worthy or unworthy.

If the object of pursuit be good, every step in the progress must be an accession of happiness.

Philosophers must be very absurd, if they suppose, that men attain to any thing above their strength.

The apprehension of what is perfect, is the guide and incentive to improvement.

No one is so distant from an end, but he may direct his motion towards it. The worst archer, as well as the best, still aims at the mark; and he who sets up the mark, is not blamed, although no one should hit it.

Human nature is actually in motion,

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motion, either in a right or in a wrong path.

One man improves his fortune or his rank; another extends his fame: they all mean, in the vulgar phraſe, to *better* themſelves.

If they ſtudied candour, magnanimity, and force of mind, there is no doubt but they would really better themſelves.

We cannot diſſuade the miſer from the care of his fortune, by telling him, he never will amaſs all the riches in the world; nor a man of ſenſe from the love of probity and courage, by telling him, that he never will attain to perfect virtue.

SECT.

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SECT. II.

Of Opinions productive of Misery, or that hinder Improvement *.

IT is unhappy to lay the pretenſions of human nature ſo low as to check its exertions.

It is unhappy to entertain notions of what men actually are, ſo high, as upon trial to incur diſappointment, diſguſt, or deſpair of virtue.

It is unhappy to reſt our own choice of good qualities on the ſuppoſition, that we are to meet with ſuch qualities in other men.

It is a wretched opinion, that happineſs conſiſts in a freedom

* See Epictetus by Arrian, and Antoninus's Meditations.

from

from trouble, or in having nothing to do.

In conſequence of this opinion, men complain of what might employ them agreeably.

By declining every duty, and every active engagement, they render life a burden, and complain that it is ſo.

By preferring amuſement to buſineſs, they reject what is fitted to occupy them, and ſearch in vain for ſomething elſe to remove their languor.

It is unhappy to entertain an opinion, that any thing can amuſe us better, than the duties of our ſtation, or than that which we are in the preſent moment called upon to do.

It is an unhappy opinion, that beneficence is an effort of ſelf-denial, or that we lay our fellow-creatures

creatures under great obligations by the kindneſs we do them.

It is an unhappy opinion, that any thing whatever is preferable to happineſs.

The vulgar, as well as the learned, have their paradoxes: They frequently prefer intereſt, fame, and power, to acknowledged happineſs.

They prefer conſideration, or the imputation of worth, to worth itſelf.

It is wretched to rely for happineſs on what we cannot command.

It is wretched to have an opinion of good in things which we might forego with indifference, or of evil in things which we might endure with patience.

It is an error to employ terms of admiration or contempt looſely,

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ly, and without attention to their proper meaning.

We vulgarly ſay, that *a man* is the better or the worſe, when we mean only that ſomething has happened to his fortune.

Such phraſes, we ſuppoſe, may be underſtood; but, like many others of the ſame kind, they ſlur over a very abſurd apprehenſion, that confounds external circumſtances with perſonal qualities, and what does not belong to a man with what does.

SECT. III.

Of Opinions, or Circumſtances, productive of Happineſs, or that lead to Improvement.

IT is happy to value perſonal qualities above every other conſideration.

It

It is happy to rely only on what is in our own power; to value the engagements of a worthy and ſtrenuous mind as our ſole good, and the debaſements of a malicious and cowardly nature as our ſole evil.

It is happy to have continually in view, that we are members of ſociety, and of the community of mankind; that we are inſtruments in the hand of God for the good of his creatures; that if we are ill members of ſociety, or unwilling inſtruments in the hand of God, we do our utmoſt to counteract our nature, to quit our ſtation, and to undo ourſelves.

I am in the ſtation which God has aſſigned me, ſays Epictetus. With this reflection, a man may be happy in every ſtation; without it, he cannot be happy in any. Is not the appointment of God ſuffi-

cient to outweigh every other conſideration? This rendered the condition of a ſlave agreeable to Epictetus, and that of a monarch to Antoninus. This conſideration renders any ſituation agreeable to a rational nature, which delights not in partial intereſts, but in univerſal good.

Whoever poſſeſſes good perſonal qualities, holds them in dependence only upon God: but the circumſtances in which men are placed; the policy or government of their country; their education, knowledge, and habits, — have great influence in forming their characters.

CHAP.

CHAP. V.

Of the fundamental Law of Morality, and the Subjects to which it is applicable.

SECT. I.

The Law, and its immediate Conſequences.

THE greateſt good competent to man's nature, is the love of mankind.

The conſequences of this law are,

1. That the good of communities, or of mankind, is likewiſe that of the individual.

2. That in the works of God

the whole is preſerved by that which conſtitutes the good of the part, and that there is no happineſs of the part conſiſtent with what is hurtful to the whole.

3. That the greateſt ſervice which benevolent men can render to their fellow-creatures, is to promote diſintereſtedneſs and candour.

4. That things are to be eſtimated, independently of opinion, or temporary faſhion, by their tendency to the good of mankind.

This law may be applied ſeparately to the mind, and to external actions.

SECT.

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SECT. II.

Application to the Mind.

HAppineſs and miſery, good and evil, are qualities of mind.

In theſe qualities, the diſtinction of right and wrong ſubſiſts.

This diſtinction is to be found in the oppoſition of benevolence to malice, of wiſdom to folly, of courage to fear, and of rational occupation to ſenſuality and diſſipation.

The fundamental law of morality requires an affection determinate in its nature, but indefinite in reſpect to its object.

The affection is conſtituted by a diſpoſition compaſſionate and benevolent.

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Let no one complain, that this law preſents an object beyond the conception of moſt men, and beyond the influence of any ſingle man.

It requires nothing beyond theſe limits; but it requires, that a man ſhould love where-ever he conceives a fellow-creature ſuſceptible of happineſs or miſery, and that he ſhould do good where-ever he has influence.

This affection being an active principle, requires, or inſpires, all the qualities which are requiſite to attain its end, or all the qualities which fit one man to procure the good of another.

Among theſe qualities, next to the affection itſelf, wiſdom occupies the principal place.

Good intentions have no effect if not properly conducted.

Good

Good intentions, when miſled, or abuſed, end in diſguſt, or a diſtaſte to good actions.

This affection requires courage and fortitude; for weak and timorous minds are too much occupied about their own ſafety, to entertain any ſincere or vigorous affection.

It requires temperance; for men addicted to ſenſuality or diſſipation, are not capable of continued or ſerious attachments.

This affection, when ſincere and ardent, naturally occupies the mind to the excluſion of inferior pleaſures, of perſonal anxieties and fears; and is therefore a principle of temperance and fortitude.

The mind that poſſeſſes itſelf, and its beſt affections, undiſturbed by external circumſtances, muſt poſſeſs continual ſatisfaction,

tion, uninterrupted by any of the unhappy paſſions that afflict the malicious, the envious, the timorous, the jealous, the intereſted, the emulous, the vain-glorious, and the ambitious.

Such men are either by their tempers unhappy, or by their purſuits expoſed to diſappointments and mortifications, and engaged in jealouſy and enmity to their fellow-creatures.

SECT. III.

Application to external Actions in general.

EXternal actions, conſidered apart from affection or intention of mind, are mere movements of the body, conſtituting neither

neither enjoyment nor ſuffering, good nor evil.

But affection or intention being good or evil, it follows, that the ſame law of morality which requires or forbids the affection, muſt likewiſe require or forbid the external conduct that is ſuppoſed to reſult from it.

The law which requires the love of mankind, ſupported by wiſdom, courage, and temperance, likewiſe requires every external action that is ſuited to this affection, and to theſe qualifications.

The law that prohibits malice, remiſſneſs, cowardice, or intemperance, prohibits likewiſe every external effect of theſe characters.

SECT.

SECT. IV.

Diverſity of Opinions concerning the Morality of external Actions.

THE difference of moral good and evil cannot be aſcertained in the deſcription of mere external actions.

Actions materially the ſame, are in one caſe morally good, in another caſe morally evil. Men are not univerſally agreed concerning the actions which they require or prohibit in any caſe whatever. What is reckoned innocent or praiſe-worthy in one country, is reckoned a heinous offence in another. The definitions of theft, murder, or treaſon,

ſon, are different in the laws of different countries.

The terms expreſſing the external duties of men in one language, have not a preciſe equivalent in another.

SECT. V.

Cauſes of this Diverſity.

THis diverſity does not ariſe from any difference of opinion, or experience, concerning the nature of good or ill affections and diſpoſitions.

All mankind are agreed, that benevolence and courage are pleaſant, that malice and cowardice are painful; and if it ſhould be alledged, that any number of men are of contrary opinions, yet every

ry individual may, from his own experience, correct the error.

This diverſity proceeds from three different cauſes:

1. The difference of the caſe.

2. The different choice of the parties who are affected by the external actions.

3. The different interpretation of actions.

SECT. VI.

Difference of the Caſe.

CAſes change with the perſon, and with circumſtances.

An action materially the ſame is permitted to one perſon, and forbidden to another: It is the duty of a magiſtrate to put the guilty to death; this would be criminal in a private party.

A

A perſon may kill in his own defence, but not in different circumſtances.

Caſes are varied indefinitely; and rules of action being general, cannot provide for all the peculiarities of any caſe whatever.

The only direction on which men can rely in every particular caſe, is the diſcernment of a wiſe and benevolent mind.

SECT. VII.

Difference of Choice.

THE different choice of parties intereſted in the effect of any action, ariſes from opinion.

One perſon believes that to be good for himſelf, which another

perſon believes to be evil. In their requiſition of beneficent actions, they differ accordingly: One man requires as a favour what another would reſent as an injury.

There is no external effect of which men may not entertain contradictory opinions, even of life and of death.

The father among the Eſquimaux requires, at a certain age, that his own children ſhould put him to death.

The widow in Europe deſires to have a good ſettlement made by her deceaſed huſband: in India, ſhe deſires to be burnt on his funeral pile.

In every caſe, actions are required as the effects or expreſſions of kindneſs and regard.

SECT.

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SECT. VIII.

Difference of Interpretation.

IN many inſtances, external actions are, in their own nature, indifferent, or of no effect; but are the eſtabliſhed ſigns and expreſſions of neglect or attention, of good or of ill will, or of ſome affection or diſpoſition.

Such are many religious rites in every country, and many ceremonies obſerved in common life. Even actions of more conſequence, are frequently more regarded on account of their meaning, than on account of any other effect.

So far as actions are mere expreſſions, the choice of them, like that of words, is perfectly arbitrary; and nations may differ

from each other in their external obſervances, as they do in their ſpeech, without any inconvenience whatever. One nation commends what another condemns, merely becauſe they interpret the ſame, or a like action, differently.

The diverſities of manners ariſing from difference of choice or interpretation, render it difficult to judge of the merits or perſonal qualities of men, in ages or nations remote from each other.

The vulgar are able to interpret only the manners of their own condition and country; they commonly miſtake thoſe of a different rank, or of foreigners.

There is in fact nothing in external manners which opinion may not render agreeable or diſagreeable; and the opinion of one country is not the rule or ſtandard

ſtandard by which to judge of the manners of another.

The definitions of crimes vary in the law of different countries; becauſe different overt acts are ſpecified as the marks of guilt.

Terms of praiſe or blame, have not their preciſe equivalent in different languages; becauſe men combine variouſly, under different terms, the circumſtances from which they infer merit or demerit.

This is conſiſtent with a perfect agreement of opinion concerning any of thoſe circumſtances apart.

SECT. IX.

Fundamental Laws of external Action.

1. IN matters indifferent, we ought to obſerve the manners of our country, as we ſpeak its language, or wear its dreſs.

2. In matters of importance, we ought to chuſe what is for the good of mankind, in oppoſition to opinion and cuſtom.

Thus we ought to do whatever tends to promote goodneſs, to prevent corruption, and to ſecure the rights of mankind; and to avoid whatever tends to corrupt or to ſeduce, and whatever tends to make way for oppreſſion.

When the habits or affections of men change for the better or the

the worſe, they improve or degenerate.

When their cuſtoms change from what is innocent, or beneficial to mankind, to what is pernicious, they are ſaid not to undergo a change of manners merely, but to be depraved.

If they ſhould be ignorant of the tendency of their own pernicious cuſtoms and manners, even this ignorance would be an article of depravity.

SECT. X.

Of the different Sanctions under which external Actions are required or prohibited.

THE ſanction of any law, is the good or ill annexed to the obſervance, or to the neglect, of it.

The

The ſanction of the fundamental law of morality is, that the obſervance of it is happineſs, and the neglect miſery.

The ſanction of this law in every application is, that to obſerve it is to act the part of a happy man; to neglect it, is to act the part of a wretched man.

Theſe ſanctions, when referred to external actions merely, come under two heads:

1. The ſanction of compulſory law.

2. The ſanction of duty.

The ſanctions of compulſory law are, any forcible means employed by men to vindicate their own rights, or thoſe of others.

The ſanctions of duty are, any conſiderations that determine men, from choice, to act properly.

SECT.

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SECT. XI.

Of parties to whom the Laws of Morality refer.

THE law of morality may be referred to the conduct of ſingle parties, or to that of collective bodies.

The conduct of ſingle parties is required, or prohibited, under the ſpecial ſanctions of compulſory law, or under the ſanctions of duty.

Conduct required or prohibited, under the ſanction of compulſory law, is the ſubject of juriſprudence.

Conduct required or prohibited under the ſanction of duty, is the ſubject of caſuiſtry.

The

Conduct prohibited or required of men in what affects the ſtate and form of their community, is the ſubject of politics.

Communities ſtated in their relation to each other, are to be conſidered as ſingle parties.

INSTI-

INSTITUTES OF MORAL PHILOSOPHY.

PART V.

Of Jurisprudence.

CHAP. I.

Of the Foundations of compulsory Law.

THE first application of the fundamental law of morality to the actions of men, is prohibitory, and forbids the commission of wrongs.

This

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This prohibition, ſo far as every perſon may defend himſelf, and any of his fellow-creatures, even by force, is the firſt compulſory law of nature.

Any article in the ſtate of a man which may be maintained by force or otherwiſe, is termed *his right*.

Juriſprudence conſiſts of two parts.

The firſt relates to the rights; the ſecond, to the defences of men.

CHAP.

CHAP. II.

Of the Rights of Men in general.

THE regard to rights is comprehended in the law of ſelf-preſervation, combined with the law of ſociety; or, in other words, it ariſes from our diſpoſition to preſerve ourſelves, and our fellow-creatures.

Whatever conſtitutes the perſon, or the ſtate, of a man, either original, or acquired, without wrong to others, is his right.

Wrong is oppoſed to right. The ſentiment ariſing from a ſenſe of wrong in our own caſe is reſentment; in that of others, is indignation.

No one can have a right to what is not poſſible, or not real.

The right of one man is exclusive of the right of another.

CHAP. III.

The Law of Defence in general.

A Right may be maintained by any means that are effectual and neceſſary.

This law of defence includes three clauſes:

1. That a wrong apprehended may be prevented.

2. That a wrong offered may be repelled.

3. That a damage done ſhould be repaired.

CHAP.

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CHAP. IV.

Difference of Rights.

SECT. I.

General Diviſion.

RIghts may be conſidered in reſpect to their ſubject, or in reſpect to their ſource.

In the firſt reſpect, they are ſaid to be perſonal, or real.

In the ſecond, they are ſaid to be original, or adventitious.

SECT. II.

Of Rights Perſonal.

PErſonal rights ſubſiſt in the perſon, and are the conſtituents of its nature.

Perſons are ſaid to be natural or artificial.

Perſons natural are ſingle men.

Perſons artificial are corporations or ſtates.

The rights of natural perſons ſubſiſt in the limbs and members of the body, in the faculties and talents of the mind, and the uſes of both.

The rights of artificial perſons ſubſiſt in their conſtituent members, their forms, and their laws.

SECT.

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SECT. III.

Of Rights Real.

REal rights ſubſiſt in things of which any perſon may have the excluſive uſe.

Real rights may be referred to three principal heads:

Poſſeſſion, Property, and Command.

Poſſeſſion conſtitutes right only while a thing is in actual uſe.

Property conſtitutes a continual right.

No one can have a right of poſſeſſion to the property of another.

Command is a right to the ſervices or obedience of other men.

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SECT. IV.

Of Original Rights.

ORiginal rights are the univerſal appurtenances of man's nature, and coeval with his being.

The perſonal rights of men are original.

The right of the parent to command the infant child is original; but in every other inſtance, no man has an original right to force the obedience of another, except in obliging him to abſtain or deſiſt from wrongs.

SECT.

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SECT. V.

Of Adventitious Rights.

ADventitious rights are ſuch as accrue variouſly to men in the courſe of human life.

Original rights are recogniſed on being mentioned.

Adventitious rights are matter of diſcuſſion, and recogniſed only ſo far as they are proved.

In treating of adventitious rights, we muſt not only enumerate their ſubjects, but likewiſe the means by which they may be acquired.

Poſſeſſion, property, and command, are adventitious rights.

The adventitious diſtinctions in ſociety are founded, for the moſt part, on property and command.

CHAP.

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CHAP. V.

Of the Laws of Acquisition in general.

NO right can be acquired by injustice; or, in other words, by any deed pernicious to mankind.

The means of acquiring any right may be referred to four principal heads:

Occupancy, Labour, Convention, and Forfeiture.

CHAP.

CHAP. VI.

Law of Occupancy.

OCcupancy is ſuch a relation of a perſon to a thing, that no other can uſe the ſame thing, without detriment or moleſtation to the occupier.

In this manner, a perſon may occupy the ground on which he lies, &c.; but no one can occupy the light of the ſun, the air of the atmoſphere, or the waters of the ſea, &c.

CHAP.

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CHAP. VII.

The Law of Acquiſition by Labour.

LAbour is any effort by which a perſon may, for his own uſe, fabricate, procure, or improve, any unappropriated ſubject.

The right acquired to the fruits of labour, is implied in the original right all men have to the uſe of their talents or faculties.

Prior to convention, men do not acquire rights by the obſervance of any form or ceremony that is of no effect; for the right acquired is only to the uſe of what is produced.

Mere acceſſion, or what is not the effect of any care and labour, if there be

be no convention to the contrary, falls to the firſt occupier.

The increaſe of a man's flocks or herds, being the fruits of his care, is his property; but the acceſſion of new lands, or iſlands, contiguous to his, falls to the firſt occupier.

A man, by labouring on another's property, cannot annul the others right; on the contrary, the fruit of his labour, if it cannot be removed without damage to the principal ſubject, falls to the proprietor of that ſubject.

But a perſon who happens *bona fide* to employ his labour on the ſubject of another, may remove or enjoy the fruit of his labour, if this can be done without detriment or inconveniency to the other.

Civil conventions accommodate the

the effects of acceſſion or of labour to the conveniency of parties, and to the policy of particular ſtates.

CHAP. VIII.

The Law of Acquiſition by Contract.

SECT. I.

The Obligations of Contract.

A Perſon is intitled to exact what another has ſtipulated to perform.

Men by nature rely on the promiſes of others.

The object of a promiſe or engagement becomes part of a man's ſtate; he is intitled to exact the performance of it by force.

Here the compulſory law, which in its original form is prohibitory, or

or negative, becomes positive, requiring, that every just engagement should be fulfilled.

SECT. II.

Laws of Contract in general.

1. THE source of conventional obligation, is the right of one party to exact a performance upon which another has made him rely.

2. Contracts, therefore, create right only to what depends on the will of contracting parties.

3. To constitute a contract, mutual promises, or a promise and acceptance, are necessary between parties, acting freely, and possessed of the use of their reason.

Although one party has promised, if the other has not accepted,

the laſt cannot pretend to have an expectation raiſed.

But mutual promiſe implies acceptance.

Men who are known not to act voluntarily, or rationally, cannot raiſe any reaſonable expectation.

4. A party may ſtipulate in perſon, or by his agent, or meſſenger, in words, actions, or ſigns, that are underſtood.

5. A perſon is bound by the ſtipulations of a ſervant, or meſſenger, to whom he has given credentials, or whom he has authoriſed by repeated acknowledgements of his truſt.

6. Words are to be interpreted in their moſt ordinary ſenſe, or in the ſenſe in which it appears from other ſigns that they were intended to be uſed.

7. An action of any kind, performed

formed with a view to raiſe expectation, or by which it is known that expectations are naturally raiſed, is ſufficient to conſtitute a contract.

8. Cuſtom is a reaſonable ground of expectation; and therefore is binding on all parties.

Great part of the civil conventions of men are conſtituted by the received cuſtoms of their ſociety.

A practice introduced by force, may become a legal cuſtom: for being ſuch as men are reconcileable to, after they are reconciled, and continue to obſerve it voluntarily, it becomes a matter of convention.

But practices, or ſufferings, to which men are not reconcileable, and with which they are made to comply by force, can never be conſidered as matter of convention, but uſurpation.

SECT. III.

Contracts of different Denominations.

CONtracts may be diſtinguiſhed as abſolute, or conditional; and as ſingle, or reciprocal.

Abſolute contracts are conſtituted by a ſimple promiſe and acceptance.

Conditional contracts expreſs promiſe and acceptance under a condition.

Single contracts conſiſt in the promiſe of one party, and acceptance of the other.

Here one party is ſtipulating, the other accepting.

Reciprocal contracts conſiſt of mutual promiſes, and mutual acceptance.

Here

Here each party is both ſtipulating and accepting.

SECT. IV.

Of the Exceptions to Contracts in general.

ANY promiſe given is rendered void, by the exceptions of force, fraud, injuſtice, or impoſſibility.

First Exception.

Force is conſtituted by actual violence or menaces employed by the accepting party.

This exception is valid,

1. Becauſe a perſon extorting a promiſe by force, cannot have a reaſonable expectation of its performance's being intended.

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2. Becauſe the party offering force commits an injury; and inſtead of acquiring a right, may be prevented, repelled, or obliged to make reparation.

N. B. This exception does not extend to the caſe of contracts entered into with one party, on account of the violence offered by another.

Nor is this exception admitted by the practice of nations in the caſe of any ſurrender at war, or military capitulation.

Second Exception.

Fraud is conſtituted by the deceit which a party employs to obtain a promiſe in his own favour.

This exception is valid,

1. Becauſe a party who is known to be deceived concerning what he promiſes, cannot raiſe an expectation

expectation that he will perform when undeceived.

2. Becauſe deceit, or impoſition, is an injury, and gives a title to reparation.

N. B. This exception does not invalidate the promiſe made to an innocent party in conſequence of the miſinformation of another.

Nor does it invalidate any military capitulation, though obtained by ſtratagem.

THIRD EXCEPTION.

Injuſtice conſiſts in the wrong which a third party would ſuffer from the performance of a contract.

There are four different caſes in which this exception may be offered:

Caſe 1. When neither of the contracting

contracting parties, at the time of ſtipulating, was aware of the wrong.

In this caſe the contract is ſimply void.

Caſe 2. When only the party accepting was aware of the wrong.

In this caſe, the contract is void; and the party accepting has committed an injury againſt the party ſtipulating, as well as againſt the third party, who, if the contract had taken effect, was likely to have ſuffered.

Caſe 3. When only the party ſtipulating was aware of the wrong.

If he ſtipulated with intention to perform, he is injurious to the third party concerned.

If he ſtipulated with intention to plead the exception, he is injurious to the party accepting.

Caſe

Caſe 4. When both parties were aware of the injuſtice.

Both are injurious to the third party concerned.

Fourth Exception.

Impoſſibility extends to every caſe that cannot, in the nature of things, take place; to every article that exceeds the power, or that does not depend on the will, of the parties.

This exception, like the former, may be offered in four caſes.

Caſe 1. When neither contracting party was aware of the impoſſibility; —

The contract is ſimply void.

Caſe 2. When only the party accepting was aware of the impoſſibility.

This conduct is either irrational, or may be injurious to the ſtipulating

pulating party, by drawing him into ſnares and fruitleſs attempts.

Caſe 3. When only the party ſtipulating was aware of the impoſſibility.

It is injurious to the accepting party, by creating vain expectations.

The 4th caſe, Suppoſing both parties aware of the impoſſibility, is altogether irrational and abſurd.

SECT. V.

Exceptions peculiar to Conditional and Reciprocal Contracts.

ALL conditional contracts are void, if the condition has failed, or is found to be unjuſt or impoſſible.

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The condition may be a mere contingency, or it may depend on the will of either party.

If a contingency, the parties may be allowed to interpoſe, as they do in games of ſkill and dexterity.

Or they may not be allowed to interpoſe, as in games of chance.

If the condition depend on the will of the ſtipulating party, he becomes bound to perform one action, only in conſequence of having performed another.

If it depend on the will of the accepting party, he acquires a right, only in caſe of having performed his condition.

In mutual contracts, a party failing on his part, has no title to exact performance on the other part.

CHAP.

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CHAP. IX.

Of the Law of Acquiſition by Forfeiture.

WHoever has done an injury, is bound to repair it. In this manner, the injurious perſon may have forfeited to another what was formerly his own right.

No man can forfeit by actions caſual and involuntary. Such actions, when prejudicial to others, are misfortunes, not injuries.

CHAP.

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CHAP. X.

Of the Law of Acquiſition, as applicable to particular Rights.

SECT. I.

Of Poſſeſſion.

THis is acquired by occupancy alone.

SECT. II.

Of Property.

THis is acquired, to any ſubject formerly unappropriated, by labour alone.

The effect of preſcription in ci-

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vil ſociety, reſults from convention, not from occupancy.

Property may be transferred by convention or forfeiture.

A convention transferring property, is a conveyance.

A conveyance conſiſts of conſent and delivery.

A party who has obtained conſent without delivery, may defend, or occupy, the ſubject, in right of the former proprietor, not in his own.

Hence it is argued, that the mere conſent of a party deceaſed, without delivery, cannot convey property; becauſe the party deceaſed having no right, the ſubject falls to the firſt occupier.

The force of laſt wills is an effect of convention among the living, not of right ſurviving the dead.

SECT.

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SECT. III.

Of the Right to Command, or Service.

THE right to command is acquired by contract or forfeiture.

The contract between the maſter and hired ſervant is a reciprocal contract.

The terms are ſuch as they mutually ſtipulate, or ſuch as known cuſtoms eſtabliſh.

The civil contract or convention between the magiſtrate and ſubject, or ſovereign and people, is likewiſe reciprocal.

The terms are ſuch as the parties ſtipulate in expreſs charters and ſtatutes, or ſuch as may be aſcertained from known cuſtoms.

The ſocial compact, from which, according to ſome writers, the mutual duties of men in ſociety are to be deduced, is a mere fiction in theory, reſembling the fiction in law, by which a plea which ariſes from one ſource, is ſuſtained as coming from another.

Thus mutual pleas of guardian and ward, which aroſe from equity, were ſuſtained in the Roman law as ariſing from contract.

There never was in reality any contract prior to the eſtabliſhment of ſociety. Cuſtoms, charters, and ſtatutes, which conſtitute or expreſs the civil conventions of men, are all poſterior to the eſtabliſhment of ſociety.

Fictions of law may be convenient in arranging civil actions, but are of no uſe in explaining the laws of nature; for by the law

law of nature, every right, and every obligation, is admitted only where it is real, and can receive no confirmation from any fiction whatever.

The original rights of men, founded in humanity, and in the title of every perſon to defend himſelf, are ſo far from gaining force, by being referred to a ſuppoſed convention, that they are actually weakened.

Men are equally ſenſible of their obligation to abſtain from wrong of any kind, as from breach of faith. The laſt is actually comprehended in the firſt, or is founded upon it.

A right to command is ſometimes acquired by forfeiture, when a perſon who has done a wrong, becomes bound to repair it by his ſervices.

No contract or forfeiture can

deprive a man of all his rights, or render him the property of another.

No one is born a ſlave; becauſe every one is born with all his original rights.

No one can become a ſlave; becauſe no one, from being a perſon, can, in the language of the Roman law, become a thing, or ſubject of property.

The ſuppoſed property of the maſter in the ſlave, therefore, is matter of uſurpation, not of right.

CHAP.

CHAP. XI.

Of the Law of Defence.

SECT. I.

Of the Means of Defence in general.

BY the law of defence, a perſon may maintain his right againſt any other perſon who wrongs, or is likely to wrong, him, by any means that are neceſſary for that purpoſe.

The means of defence may be referred to three principal heads:

Perſuaſion, Artifice, and Force.

The law of defence does not authoriſe the uſe of any means that are unneceſſarily hurtful to the party againſt whom they are employed.

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A man is intitled only to preſerve his own right: whatever harm he does beyond what is neceſſary for this purpoſe, is an injury.

The law of defence may be applied to perſons in three different caſes:

1. That of parties ſuppoſed ſtrangers, and unconnected.
2. That of fellow-citizens.
3. That of nations.

SECT. II.

The Caſe of Parties Strangers to each other, and unconnected.

THis caſe is commonly treated of under the title of the ſtate of nature; and in this ſtate every man is ſuppoſed unconnected with all men.

It

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It is abſurd to intitle that the ſtate of nature to which men are not naturally diſpoſed, and in which they moſt certainly never were known.

Writers have not recollected, that it was ſufficient for the purpoſe of their reaſonings, to ſuppoſe any two or more parties unconnected with each other, tho' not unconnected with all mankind.

Such parties are poſſeſſed of their original rights; but having no convention, can have none of thoſe rights, and none of thoſe obligations, which ariſe from convention alone.

If either party ſhall commit an injury againſt the other, the injured is intitled to his defence.

The injured may act and judge for himſelf; and where perſuaſion and artifice have failed, or are not likely to ſucceed, may employ force.

SECT.

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SECT. III.

The Caſe of Fellow-Citizens.

FEllow-citizens are connected by civil and political conventions; on which are founded a variety of adventitious obligations and rights.

The obligations of fellow-citizens are either thoſe of fellow-ſubjects, or of magiſtrate and ſubject.

Fellow-ſubjects have ſtipulated, to refer their differences to the judgement of courts, and to employ, in their defence, the power of the magiſtrate.

This law admits of the following exceptions:

1. Where the judgement of courts cannot be had, nor the power

power of the magiſtrate interpoſed, to prevent an injury.

2. Where the relief by civil ſuit, cannot be adequate to the injury apprehended.

Judges have ſtipulated to decide according to law and juſtice.

Magiſtrates have ſtipulated to defend the rights of the ſubject.

The magiſtrate, as acting in defence of the ſtate, and of its ſubjects, is intitled to repreſs crimes by reſtraints and puniſhments.

He is directed, in the application of reſtraints and puniſhments, by the law of nature, and of convention.

The law of nature, where there is no convention to the contrary, limits the power of the magiſtrate to what is neceſſary to defend the innocent. All reſtraints or ſeveri-

ties

ties employed beyond theſe limits, are unlawful.

The laws of convention are various in different ſtates; in ſome nations permitting arbitrary impriſonment, unlimited ſeverities and tortures, for every crime, at the diſcretion of the magiſtrate.

Powers of this ſort are frequently uſurpations on the part of the magiſtrate, not his rights.

Puniſhments applied according to ſome fixed rule of law, give ſtability to the principles of juſtice; but appearing to proceed from perſonal reſentment or indignation, produce terror, and deſtroy the ſecurity of the innocent, together with that of the guilty.

SECT.

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rors, by pointing out the real tendencies of virtue and of vice in external actions.

CHAP. V.

Of the Tendency of Virtue in external Actions *.

SECT. I.

Of the different Branches of Virtue.

IT has been obſerved, that a fool can neither come into company, nor go out of it, can neither ſit, ſtand, nor walk, like a man of ſenſe †. It may be ſaid likewiſe, that a knave can do nothing like a man of probity.

* Cicero de officiis, lib. 1.

† Maxims of La Bruyere,

The law of external action is so essential to morality, that men very frequently confine the whole of morality to this law.

But virtue is in reality a qualification of the mind; although the term equivalent to *virtue*, in every language, implies all the required effects and appearances of this qualification.

Its constituents are, Disposition, Skill, Application, and Force.

Corresponding to the number of these constituents, virtue has been divided into four capital branches, called the *Cardinal Virtues*.

These are, *Justice* or *Probity*, *Prudence*, *Temperance*, and *Fortitude* *.

Justice or probity is the regard shown to the rights and happiness of mankind.

* This division is so natural, that it has always presented itself when we have treated of the felicity or excellence competent to man's nature.

Those

Thoſe effects of juſtice which mere innocence implies, are required under the ſanction of compulſory law.

Thoſe that conſtitute beneficence, are required under the ſanctions of duty only.

Prudence is that diſcernment by which men diſtinguiſh the value of ends, and the fitneſs of means to obtain them.

Without this qualification, men are not fitted to act with any meaſure of ſteadineſs, conſiſtency, or good effect.

Temperance is abſtinence from inferior pleaſures, or amuſements, that miſlead our purſuits.

No one can apply himſelf effectually to any worthy purpoſe, who is liable to the interruption of mean pleaſures or amuſements, that occupy an improper part of

his time, that ſtifle his affections, or impair his talents.

The maxim of temperance is, That a perſon having once aſcertained what his beſt and happieſt engagements are, ſhould count every moment loſt, that, without neceſſity, is otherwiſe employed.

Fortitude is the power to withſtand oppoſition, difficulty, and danger.

All the good qualifications of men have a reference to ſome effect to be produced, and to ſome difficulty that is to be overcome. Hence diſpoſitions and capacities of any ſort are of no avail, without reſolution, and force of mind.

SECT.

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SECT. II.

Of Duties referred to Probity or Juſtice.

DUties referred to probity, are either private or public.

The private duties are, *Innocence*, *Candour*, *Piety*, *Friendſhip*, *Gratitude*, *Liberality*, *Charity*, *Civility*, and *Politeneſs*.

Innocence has been obſerved to be the object of compulſory law, and is the moſt indiſpenſable characteriſtic of probity.

It implies, beſide other effects, Veracity and Faithfulneſs: the firſt oppoſed to deceit; the ſecond, to perfidy.

Candour is the juſt allowance given to the pretenſions or merits of other men, in oppoſition to pre-

judice, or to the ſuggeſtions of intereſt.

Piety is the exerciſe of veneration and love; firſt, towards God; next, towards thoſe who by nature or choice are proper objects of our reſpect and affection.

The expreſſions of piety to God are either fixed or arbitrary.

Its fixed expreſſions are acts of beneficence, which concur with the providence of God in promoting the good of his creatures.

Its arbitrary expreſſions are the different rites eſtabliſhed in different countries.

Friendſhip is the beneficence of private parties, proceeding from motives of particular eſteem and attachment.

This includes the reciprocal duties of parent and child, of huſband and wife, and of all other private relations.

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The duties of the parent are, to maintain, to protect, to educate, his child; and, as far as he is able, to eſtabliſh and to ſecure his ſtate or condition.

The duties of the child are, to carry every mark of piety, deference, and obedience, and to make every neceſſary return of care and of ſupport.

Many of the duties of huſband and wife are conventional; and, as ſuch, are matter of ſtrict law; but no law can ſuperſede the inclinations of the heart.

Conſanguinity is a natural tie. The fortunes of men are commonly involved in thoſe of their family; and relations are, on account of this connection, among the firſt or neareſt objects of beneficence.

Gratitude is the return made for favours received.

Men of probity are neither ungrateful,

grateful, nor jealous of ingratitude in others.

To require a baſe action under the title of gratitude, is to forfeit the title of benefactor.

The returns due from the grateful, cannot be aſcertained by any preciſe meaſure, nor can they be exacted by force.

The intention of the benefactor is more to be regarded, than the value of his benefit.

Were it eſtabliſhed, that returns could be exacted by force, it would follow, that benefits could not be diſtinguiſhed from fees, nor the effects of gratitude from thoſe of conſtraint.

The ingratitude of mankind is ſometimes alledged as an excuſe for neglecting good offices; but it is the buſineſs of a man to perform his own part, not to anſwer for

for the returns which others may, or may not, be diſpoſed to make.

Liberality is the free communication of what is ours, to oblige others.

Charity is the free communication of what is ours, to relieve the diſtreſſed.

Undiſtinguiſhing charity is pernicious in trading nations.

It is a wiſe maxim in trading nations, That no perſon able to earn his bread ſhould be maintained gratuitouſly.

But charity to thoſe who have no bread, and are unable to earn any, is a duty of the ſtrongeſt obligation, and a very important object of public concern.

Civility is a guarded behaviour in the ordinary intercourſe of ſociety, to avoid giving offence.

Politeneſs is a behaviour intended to pleaſe, or to oblige.

Civility

Civility and politeneſs are comprehended in the general character of good breeding.

To be well bred, a man muſt poſſeſs diſcernment, candour, and good will, at leaſt a ſincere averſion to offend. The effects of affectation or deſign are eaſily diſtinguiſhed.

Ill-bred men ſometimes affect great politeneſs, but they ſhock and mortify thoſe they pretend to oblige.

Flattery, exceſſive or inſincere profeſſions, are vicious.

The ſentiments of the heart ſometimes evaporate in words; and great profeſſions are, even without any intention to deceive, put in place of benefits.

The public duties of probity are, *allegiance* on the part of the ſubject, *protection* on the part of the

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the magiſtrate, and *public ſpirit* in all parties.

The *allegiance* of the ſubject, is the fidelity, deference, and ſubmiſſion, he owes to the magiſtrate.

The *protection* due from the magiſtrate, is the interpoſition of power to preſerve the peace, and to ſecure the ſubject in the poſſeſſion of all his rights.

The *public ſpirit* due from every member of any community is,

1. A faithful diſcharge of any office intruſted for the public good.

2. A continual preference of public ſafety, and public good, to ſeparate intereſts, or partial conſiderations.

SECT.

SECT. III.

Duties referred to Prudence.

IT is the object of prudence, to direct a man in what he is to wish for himself, for his friend, for his country, and for mankind.

In this sense, prudence is the guide or directory in every duty; but in its more limited acceptation, it refers more particularly to the duties which affect a man's state or condition.

These duties may be referred to the following heads: *Decency*, *Propriety*, *Modesty*, *OEconomy*, *Decision*, and *Caution*.

Decency is the agreeableness of a person's appearance and carriage to the sense and opinion of other men.

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SECT. IV.

Caſe of Nations.

AMong nations, the act of the ſovereign, or of thoſe employed by the ſovereign, is conſidered as the act of the nation.

The act of any private perſon is not the act of the ſtate, except ſo far as, in his action, he is protected or acknowledged by the ſtate.

A nation may receive an injury in the perſon of any of its members.

A nation injured, may make repriſals on the perſons and effects of any, or all, the ſubjects of the offending nation.

Nations who maintain controverted rights by artifice, or by

force, are ſaid to be in a ſtate of war.

War is juſt only on the ſuppoſition of injuries apprehended, offered, or perpetrated.

Remonſtrances and declarations, where-ever they can be ſafely employed, ſhould precede hoſtilities.

The immediate object of war is victory.

The laws of war previous to victory are,

1. Such hoſtilities only are lawful, as are neceſſary to obtain the victory.

2. Where-ever it is ſafe to grant an enemy quarter, it is not lawful to refuſe it.

3. Breach of faith is exploded in the practice of nations at war, and would be ruinous to mankind.

4. Any party may aſſiſt the injured;

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jured; but whoever aſſiſts the injurious, may be treated as an enemy.

5. The perſon or effects of an enemy, where-ever found, may be ſeized, if this can be done without detriment to any innocent party.

6. The effects of a friend going to an enemy, if they would enable him better to carry on the war, may be ſeized.

7. Captives may be detained while the war continues, and until ſatisfaction and ſecurity be obtained.

Laws of war after victory:

1. The conqueror acquires no new right.

2. If he had been wronged, he is intitled to reparation, and to indemnification, for all his ſufferings in the war.

3. He may take ſuch precautions, by diſabling his enemy, as give him a proper degree of ſecurity for the future.

4. Nations do not acquire a property in the perſons of their captives, as they do in effects lawfully ſeized.

SECT. V.

Concluſion of Juriſprudence.

BY the maxims of compulſory law, a perſon may, on every occaſion, maintain his right: but from conſiderations of duty, he is, on many occaſions, obliged to forego it.

A perſon is more concerned to maintain and to exerciſe the affections of a beneficent mind, than he is to preſerve his condition in any other reſpect.

The

The conventional laws of ſociety, in ſome inſtances, as well as the law of humanity, admit, that the extreme neceſſity of one party may ſuperſede the right of another.

INSTITUTES OF MORAL PHILOSOPHY.

PART VI.

Of Caſuiſtry.

CHAP. I.

Of the Sanctions of Duty in general.

A LAW of duty is an expreſſion of what a perſon ought to do from choice; and in doing which, he is ſaid to have merit; or in doing the contrary, to have demerit.

The firſt application of the fundamental law of morality is prohibitory,

hibitory, forbidding the commiſſion of wrongs.

The ſecond is poſitive, requiring every external effect of virtue, or of good-will to mankind.

But acts of good-will or beneficence cannot be extorted by force.

The object of compulſory law, is the preſervation of parties expoſed to wrongs; who, in defending themſelves, may, even by force, oblige others to deſiſt from injuries.

The object of morality, in what relates to the duties of men, is the virtue of thoſe who act.

Compulſion would alienate the affections of men.

Favours extorted by force would be robberies.

Whoever employs deception or force, except in his own defence, or in that of his fellow-creatures, commits an injury.

The

The ſanctions of duty, are thoſe of religion, of public repute, and of conſcience.

CHAP. II.

Of the Sanction of Religion.

REligion is the ſentiment of the mind relating to God.

The ſanction of religion is its tendency to influence mens conduct.

This tendency is of two kinds.

The firſt is, to make men love wiſdom and beneficence, as being the characteriſtics of the ſupreme being, whom they adore; and to make them love their ſituations, and their duties, as being appointed by providence.

The ſecond is, to make them hope

hope for rewards, and to fear puniſhments.

The religious doctrine of rewards and puniſhments, is a ſpecies of compulſory law, extending to all the thoughts and inclinations, as well as the actions, of men.

This law, in all its extent, can be ſafely applied by every perſon only to himſelf.

When magiſtrates think themſelves armed with the ſanction of religion, and intitled to reſtrain thoughts as well as actions, they attempt what is placed beyond the reach of their power.

Superſtition, or the abuſe of religion, has been accompanied with very fatal effects:

With a miſapplication of moral eſteem, and the ſubſtitution of frivolous rites for moral duties; with cruel animoſities of party, and a falſe

falſe apprehenſion of ſanctity in any acts of injuſtice and horror that proceed from a ſuppoſed religious zeal.

CHAP. III.

The Sanctions of Public Repute.

THeſe ſanctions include the influence of prevailing opinions and examples, together with the commendations and cenſures men beſtow on the actions that pleaſe or offend them.

The influence of prevailing opinions and examples, ariſes from the ſocial nature of man; and is one condition by which men are fitted to act in companies and ſocieties.

The tendency of this influence is good or evil, according to the nature of the opinions or examples that prevail.

Nothing

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Nothing diſtinguiſhes men of a happy nature more, than that force with which they are ſometimes able to correct falſe opinions, and with which they are always able to reſiſt their contagion.

It is part in the ſocial nature of man, to deſire praiſe, and to ſhun blame.

This puts it in the power of every perſon to reward actions agreeable, and to puniſh actions diſagreeable, to himſelf: but as commendation and cenſure are frequently ill diſtributed, it is a great weakneſs to be guided chiefly by ſuch conſiderations.

CHAP.

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CHAP. IV.

Of the Sanction of Conſcience.

THis ſanction is conſtituted by the ſatisfaction men have in doing right, and the ſhame or remorſe which ariſes from having done wrong.

Men being deſirous of perſonal excellencies, and averſe to perſonal defects, have ſatisfaction in actions that tend to the purpoſes of virtue.

They feel remorſe or ſhame for actions that tend to the purpoſes of vice.

The ſentiments of conſcience are frequently blended with thoſe of ſuperſtition or cuſtom, and, like them, are ſubject to error.

It is the object of caſuiſtry to prevent, or to correct, ſuch errors,

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The rules of decency are prohibitory, and forbid whatever would offend, in nudity, filth, or obſcenity.

Propriety is the ſuitableneſs of a perſon's behaviour to his nature, his age, his ſtation, and rank.

There is in all the external effects of virtue, as being ſuitable to man's nature, a propriety that may be conſidered apart from their other recommendations.

Diffidence, and a cautious approach to the manners and pretenſions of manhood, are proper to youth.

Reſolution is proper to manhood.

Calmneſs and *Deliberation* to age.

Dignity and *Reſerve*, without contemptuouſneſs or petulance, are proper to men of high ſtation.

Deference, without ſervility, is proper to men of inferior rank.

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Modeſty is a proper reſerve on every ſubject of ſelf-eſtimation.

It forbids oſtentation of what we poſſeſs, of what we have done, or of what we have ſuffered.

OEconomy is the proper adjuſtment of a perſon's expence to his fortune.

Where fortune conſtitutes rank and power, œconomy is required to preſerve independence and freedom.

Senſuality and gaming are adverſe to good œconomy.

Deciſion is a ſeaſonable and reſolute choice of what a perſon ought to do.

In ſome caſes, heſitation is equal to a total purpoſe of inaction. Every opportunity is loſt, and every meaſure comes too late.

Caution conſiſts in a proper attention to all the difficulties that may

may occur in what a perſon undertakes.

The great objects of caution are, not to engage in what is above our ſtrength, nor to commit ourſelves to perſons that miſlead or deceive.

SECT. IV.

Duties referred to Temperance.

DUties referred to temperance may be comprehended under the heads of *Sobriety* and *Application.*

Sobriety is the moderate uſe of food, and of other animal gratifications.

The general tendency of ſenſuality, is to beget habits of ſloth, and neglect of affairs.

The immoderate uſe of intoxicating drugs, or liquors, have theſe effects in a high degree. It reconciles men, otherwiſe of an active diſpoſition, to inoccupation and idleneſs.

The debauch of the ſexes being ſometimes joined with paſſion, may occaſion a continued or habitual neglect of affairs.

Application is the preference of buſineſs to amuſement.

Buſineſs is ſuppoſed to terminate in ſome ſerious purpoſe; amuſement in mere paſtime.

Diſſipation is a weakneſs of the mind, diſabling it from chuſing or proſecuting the occupations that would engage it moſt effectually, and with moſt advantage.

SECT.

SECT. V.

Duties referred to Fortitude.

THE duties referred to fortitude are, *Patience*, *Intrepidity*, and *Conſtancy*.

Patience is the calm and deliberate ſuffering of any trouble or pain that occurs in human life.

Peeviſhneſs, the reverſe of patience, tends to realize imaginary evils, and to increaſe what is real.

Intrepidity is firmneſs, and preſence of mind, in the midſt of dangers.

Intrepidity is frequently the greateſt ſecurity in danger.

Conſtancy is perſeverance in all purſuits or engagements properly choſen.

The wavering are ſeldom capable of executing any purpoſe.

SECT. VI.

Uſes of Caſuiſtry.

THE rules of caſuiſtry cannot ſuperſede the judgement and good diſpoſition of a virtuous mind.

Attempts to give caſuiſtry this conſequence, have proceeded from ſuperſtition, and tended to confirm the moſt ſlaviſh ſuperſtition, by multiplying external obſervances, that miſlead the attention, from qualities of the heart, to matters of form.

Good diſpoſition is neceſſary to the happineſs of mankind; and dutiful conduct naturally reſults from good diſpoſition.

It

It is however of moment to anticipate, in general rules, the external effects of virtue.

These rules render the description of virtue itself more particular, and more complete. Being supported by the sanctions of religion, and of public repute, the rules of duty may procure to society the benefit of useful actions, even where they do not procure to the person acting the happiness of a virtuous heart.

SECT. VII.

Of Merit and Demerit.

ACtions are said to have merit or demerit, according to the nature and degree of the moral quality they express.

Actions that express good-will

to

to mankind in the higheſt degree, have the higheſt merit.

Hence beneficent actions performed in the face of dangers, difficulties, and perſonal ſufferings, are allowed to have the higheſt merit.

Actions that expreſs malice, and give examples of miſchiefs done without inducement or provocation, are of the higheſt demerit.

We expreſs our ſenſe of demerit in the different degrees of crimes, offences, and faults.

A crime is an injury done from malice, jealouſy, revenge, avarice, or ſome other paſſion that ſets mankind at variance.

An offence is a wrong done in the gratification of ſome paſſion in its own nature conſiſtent with amity.

A fault is a wrong done from inattention or ignorance.

Faults

Faults of inattention are culpable in proportion to the moment and importance of the ſubject.

Faults of ignorance are more or leſs culpable, as the defect of knowledge argues neglect and inattention.

It is a general maxim, That ignorance of the fact may be admitted as a plea of innocence; but not ignorance of the law.

Ignorance of natural law, or of duty, would be one of the greateſt defects of a rational nature.

INSTI-

INSTITUTES

OF

MORAL PHILOSOPHY.

PART VII.

Of Politics.

CHAP. I.

Introduction.

IT appears from the hiſtory of mankind, that men have always acted in troops and companies; that they have apprehended a good of the community, as well as of the individual;

dividual; that while they practiſe arts, each for his own preſervation, they inſtitute political forms, and unite their forces, for common ſafety.

It may be proved, that moſt of the opinions, habits, and purſuits, of men, reſult from the ſtate of their ſociety; that men are happy in proportion as they love mankind; that their rights and their duties are relative to each other; and, therefore, that their moſt important concerns are to be found in their mutual relations, and in the ſtate of their communities.

A nation is any independent company or ſociety of men acting under a common direction.

The united force of numbers, and the direction under which they act, is termed *the ſtate*.

Nations

Nations are happy who are compoſed of happy men.

Nations are wretched who are compoſed of unhappy men.

Nations may be conſidered in reſpect to their reſources, or in reſpect to their inſtitutions.

National reſources are the objects of public œconomy.

National inſtitutions are the objects of political law.

CHAP. II.

Of Public OEconomy.

SECT. I.

Of National Reſources in general.

NAtional reſources include every article that tends to conſtitute the ſtrength of a nation,

or

or that may be employed for its preſervation.

They may be referred to three principal heads; People, Wealth, and Revenue.

SECT. II.

Of Populouſneſs.

THE value of numbers is proportioned to their union and character.

Numbers without union or virtue, do not conſtitute ſtrength.

A people ſometimes, in conſequence of their numbers, become diſunited and corrupted.

If they inhabit a large and extenſive territory, they are diſunited, and loſe ſight of their community. A few ingroſs the management of public affairs, and

with-hold from the many every ſubject of public zeal, or political occupation. The greater part are thrown into a ſtate of languor and obſcurity, and ſuffer themſelves to be governed at diſcretion.

Human nature, in ſtates of a moderate extent, has proſpered and excelled; but in ſtates overgrown, has generally declined and degenerated.

If great numbers are crouded into narrow diſtricts, or cities, they are expoſed to corruption; become profligate, licentious, ſeditious, and incapable of public affections.

The union of a people depends on the arrangements or diſpoſitions by which their forces may be combined for the ſervice of the ſtate.

The

The union of the people in republics, ariſes more from their affection to the community, than from the power eſtabliſhed to enforce their ſervices.

In monarchies, it ariſes from the love of perſonal dignities, to which individuals aſpire in ſerving the ſtate.

In deſpotiſm, it ariſes entirely from the power that is prepared to enforce the ſervices of the people.

The character of a people, conſidered as a national reſource, is to be eſtimated from their fitneſs to reap, and to preſerve, or improve, the advantages of their conſtitution, and to ſupport their country in purſuit of its objects.

Different characters are required under different forms of government.

Under republics of every ſort, high degrees of probity are required; under monarchy, leſs; and under deſpotiſm, leaſt of all.

The principal objects in every ſtate, next to the political conſtitution, are war or commerce.

In warlike nations, men are to be eſtimated by their hardineſs, courage, and diſcipline.

In commercial nations, men are to be eſtimated by their induſtry, and by their ſkill in profitable arts.

Commercial nations may value acceſſions of art, as the ſureſt means of gaining acceſſions of people; for in circumſtances otherwiſe favourable, population keeps pace with the arts, and means of ſubſiſtence.

Inſtitutions that, by ſecuring property, and by preventing oppreſſion, encourage the ſettlement of

of families, and facilitate the rearing of children, are the moſt favourable to population.

SECT. III.

Of Riches or Wealth.

MEN are ſuppoſed rich in poſſeſſing the means of ſubſiſtence, accommodation, and ornament.

Wealth is a national reſource, becauſe it may be employed in maintaining uſeful or ſerviceable men, and in ſupplying the exigencies of ſtate.

The conſtituents of wealth may be conſidered in reſpect to their value, and in reſpect to their price.

As the uſe of wealth is to maintain and accommodate men, ar-

ticles or commodities are valuable in proportion to the numbers they maintain and accommodate.

The means of ſubſiſtence are moſt valuable, becauſe without them men cannot exiſt.

The means of accommodation which contribute to the preſervation of men, and to the increaſe of their vigour and health, are next in value to the neceſſaries of life.

But articles of mere ornament are of no value at all.

The luxury of a people is to be eſtimated from their conſumption of mere ornaments.

Articles of ornament are frequently of the greateſt price.

The price of a commodity is meaſured by the quantity of any other commodity that is commonly, or occaſionally, given in exchange for it.

Price

Price is moſt commonly expreſſed, and paid, in money.

Hence money is conſidered as the equivalent of all commodities, and the conſtituent of wealth.

But commodities are no leſs the equivalents of money, and conſtitute wealth apart from this conſideration.

The price of commodities fluctuate; and keep pace with the quantity of money in circulation, with the ſcarcity of the commodity, with the demand, and with the riches of thoſe who conſume it.

Commodities that are the work of labour, time, and ſkill, cannot continue to be ſold for leſs than will maintain the workman, and pay the whole of his advance.

As the value of commodities is meaſured by the numbers they will

will maintain, ſo the coſt of a commodity may be eſtimated by the numbers and time employed in producing it.

The wealth of any country is proportioned to its natural advantages, to the induſtry and ſkill of its inhabitants, and to the profit of its trade.

Natural advantages are, good climate, fertile ſoil, and uſeful materials.

Induſtry and ſkill comprehend all uſeful arts, agriculture, and manufacture, in all their branches.

The balance of trade commonly ſtands for the difference ſuppoſed to remain due by one nation to another, after appretiating the whole goods that have paſſed in exchange between them.

The balance of value is the difference of real value in the whole goods

goods that have paſſed in exchange.

The profits of commerce are determined by the balance of value, not by the balance of price.

The nation that has the balance of price againſt it, may have the balance of value in its favour. It may have received the means of improving its land, and of extending its trade, &c.

The nation that owes the balance of price, will be obliged to part with its money, or ſome other commodity, in order to pay that balance.

When money can be ſpared from circulation, it is ſent abroad for this purpoſe; when it cannot, ſome other commodity is diſpoſed of for the ſame purpoſe.

A people amongſt whom both public and private credit are well eſtabliſhed, can, by ſubſtituting bills,

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bills, in a great meaſure diſpenſe with money in circulation.

The uſe of bills in circulation tends to extend credit.

Credit is uſeful or pernicious, according to the uſe that is made of it.

It is uſeful to an induſtrious and thriving people.

It is pernicious to the ſpend-thrift and the prodigal.

The expence of remitting money from one country to another, affects the exchange of their coins.

That nation which has occaſion to remit moſt money, muſt pay this expence, and is ſaid to have the exchange againſt it.

But as money may be remitted to make profit, it does not follow from the ſtate of exchange, that a nation is either gainer or loſer by trade.

The

The profits of trade are either mutual or partial.

They are mutual so far as commerce accommodates all parties with what they want, in exchange for what they can spare; and enables each to improve his peculiar materials, and to pursue his peculiar art; and procures to the merchant and carrier an adequate reward for their trouble.

In commerce mutually beneficial, that party gains most who receives the more useful commodity; and who receives the produce of much land, time, and labour, for the produce of less; and who, in conducting his trade, is employed in the more healthful and least corrupting occupations.

The following are laws of commerce founded in these considerations.

1. That

1. That where profits are mutual, commerce ſhould not be reſtrained by either party.

2. That a trade which terminates in giving the means of accommodation and ſubſiſtence in exchange for mere ornaments, may be reſtrained by the loſing party.

3. That monopolies are pernicious to commerce.

4. That the ſtate of a nation's wealth is not to be eſtimated from the ſtate of its coffers, granaries, or warehouſes, at any particular time; but from the fertility of its lands, from the numbers, frugality, induſtry, and ſkill, of its people.

SECT.

SECT. IV.

Of Revenue.

THat part of national wealth which is allotted for purpoſes of ſtate, is the public revenue.

The public revenue may ariſe from demeſne and unappropriated ſubjects, or from taxes.

The firſt is the earlieſt ſpecies of revenue in rude nations, and is ſuited to their indolence, and ignorance of lucrative arts.

The ſecond is better ſuited to the induſtry and ſkill of commercial nations.

It is not the intereſt of commercial nations, that any ſubject ſhould remain unappropriated. While a ſubject remains unappropriated, it is commonly neglected.

Revenue ariſing from taxation,

may increaſe together with the numbers, wealth, and frugality, of the people.

In judging of the abſolute or comparative expediency of different taxes, the following axioms may be admitted.

1. That the exigencies of the ſtate muſt be provided for at any hazard or expence to the ſubject.

2. That in levying taxes, no ſubject be unneceſſarily burdened.

3. That the ſecurity of the ſubject, or that of his property, be not impaired.

4. That no uſeful branch of trade be unneceſſarily burdened.

5. That taxes leaſt felt as grievances be preferred.

6. That the leaſt burdenſome method of collecting taxes be choſen.

N. B. The method of farm appears, from experience, to be more

more burdenſome than that of revenue-office.

Taxes may be referred to four general heads:

Capitation, Aſſeſſment, Cuſtoms, and Exciſe.

Capitation is a tax on the perſon, and falling equally on the poor and the rich.

Capitation may be oppreſſive to the poor, without levying from the rich what they are able to furniſh to the ſtate.

Capitation is a ſymptom of deſpotic and oppreſſive government.

Aſſeſſment is a tax on riches, and is proportioned to the eſtate aſſeſſed.

Aſſeſſments may fall equitably, when property is unequally diſtributed.

Land-eſtate being moſt eaſily

aſcertained and valued, is the propereſt ſubject of aſſeſſment.

The ſtock of the merchant is fluctuating; and attempts to aſcertain it might give occaſion to frauds, or improperly diſcloſe the ſecrets of trade.

Cuſtoms are taxes impoſed on goods in commerce, and advanced by the merchant.

Cuſtoms impoſed on the neceſſaries of life, are a tax on the poor, and have the effects of capitation.

Cuſtoms impoſed on matters of ornament, or coſtly accommodation, are a tax on the prodigal or the rich.

Such taxes are moſt ſuitable to eſtabliſhments that are founded in humanity and juſtice.

Cuſtoms are an incumbrance on trade, and may amount to a prohibition of particular articles.

Cuſtoms,

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Cuſtoms, though advanced by the merchant, fall on the conſumer; but being involved in the price of the commodity, are not commonly felt as a tax.

As the merchant muſt not only be reimburſed, but have profit on all his advance, it follows, that the earlier in trade cuſtoms are paid for any commodity, the heavier they muſt fall on the conſumer.

Exciſe is a tax on commodities in uſe, and paid by the conſumer.

Exciſe may be rendered a tax, either on the rich or the poor ſeparately, or on both proportionally.

Exciſe is leſs burdenſome to the conſumer, than an equivalent raiſed in cuſtoms; but is more likely to be felt as a grievance, and to create more animoſity in the ſubject againſt the ſtate.

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CHAP. III.

Of Political Law *.

SECT. I.

Of this Law in general.

WHere nations have occurred in the preceding parts of this ſyſtem, they have been conſidered only in reſpect to the hiſtory of their eſtabliſhments, or n reſpect to the foundations of civil rights, and of civil obligations: In this place they are to be conſidered in reſpect to what is expedient in political eſtabliſhments or civil conventions.

* See Inſtructions of the Empreſs of Ruſſia; L'Eſprit de Loix, tom 1.

Political

Political law, in any particular community, is the ſtatute, cuſtom, or other convention, on which the inſtitutions of that community are founded.

Political law of nature, is that branch of moral law which expreſſes what is beneficial in the civil inſtitutions of men.

The following are fundamental laws of nature relating to political inſtitutions.

1. That political inſtitutions are beneficial, in proportion as they contribute to the ſafety and happineſs of the people.

2. That political inſtitutions are beneficial, in proportion as they are adapted to the character of the people.

3. That the diſtribution of office is beneficial, in proportion as it is adapted to the conſtitution.

4. That

4. That political eſtabliſhments are the moſt important articles in the external condition of men.

SECT. II.

Of the Safety of the People.

BY the *people* is to be underſtood, not any ſeparate claſs, but all the members of the community, the magiſtrate as well as the ſubject.

The ſafety of the people conſiſts in the ſecure enjoyment of their rights.

That the rights of men may be ſecure, it is neceſſary, either that there ſhould be no one to invade, or that there ſhould be a ſufficient power to defend.

The firſt is not to be expected in human affairs; the ſecond is the

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the principal object of political eſtabliſhments.

It has been the object, or the fortune, of ſome communities, to poſſeſs members who might be intruſted with any powers.

It has been the object of other communities, to grant ſuch powers only as might be intruſted with any men.

Theſe ſeveral caſes, real or ſuppoſed, may be intitled, The government of *Innocence*, of *Virtue*, and of *Law*.

Under the government of innocence, or of virtue, matters of form are eaſily adjuſted.

Under the government of law, it is neceſſary, that the rights and obligations of men ſhould be clearly expreſſed.

This is the object of conventional law.

In

In every convention is ſuppoſed the conſent of parties given in perſon, or by others properly authoriſed.

The ſovereign is authoriſed to enact laws.

Laws relate to the conſtitution, to civil rights, or to crimes.

The moſt perfect laws relating to the conſtitution, are ſuch as confer on the magiſtrate power to reſtrain crimes, and to defend the community; but under limitations ſufficient to prevent the abuſe of this power.

The moſt perfect laws relating to civil rights, are ſuch as effectually ſecure every perſon in his ſtate.

It is the maxim of civil law, That every perſon ſhould remain in his poſſeſſion, until a better title is undoubtedly proved.

Laws

Laws relating to crimes, preſcribe the form of trials, and point out the overt acts for which certain puniſhments are appointed.

The following are maxims of natural law relating to proſecutions.

That every perſon is to be deemed innocent until he is proved to be guilty.

That no one ſhall be obliged to give evidence that may affect himſelf.

That no one ſhall be tortured into confeſſions or diſcoveries of any ſort.

That no one ſhall be puniſhed, unleſs he ſhall have committed ſuch overt acts as the law has pronounced to be criminal.

That it is better the guilty eſcape, than that the innocent ſuffer.

That

That no ſeverer puniſhment be inflicted for any crime, than is required to correct the guilty, and deter others.

To ſecure legal rights, it is neceſſary that the laws ſhould be ſtrictly interpreted and applied.

Under the government of law, diſcretionary powers are not ſafely intruſted, except to judges named by the parties; or to juries purged by the challenge of parties, and intereſted equally to protect the innocent and to puniſh the guilty.

In the ſecurity of rights conſiſts civil and political liberty.

Liberty is oppoſed to injuſtice, not to reſtraint; for liberty even cannot ſubſiſt without the ſuppoſition of every juſt reſtraint.

Natural liberty is not impaired, as ſometimes ſuppoſed, by politi-

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cal inſtitutions, but owes its exiſtence to political inſtitutions, and is impaired only by uſurpations and wrongs.

The laws of different communities beſtow unequal privileges on their members; but liberty conſiſts in the ſecure poſſeſſion of what the law beſtows.

Thoſe are the moſt ſalutary laws which diſtribute the benefits and the burdens of civil ſociety in the moſt equal manner to all its members.

SECT. III.

Of the Happineſs of a People.

THE happineſs of a people conſiſts in the love of their country, and in that diſtribution of rank and ſtation which is beſt

ſuited to their merits and capacities.

Men who have leaſt private intereſt, are beſt diſpoſed to love their country.

Men who have the feweſt adventitious diſtinctions of birth or fortune, are moſt likely to be claſſed according to their merits, to be employed ſuitably to their abilities, and to find the ſtations in which they are moſt likely to cultivate their talents and their virtues.

That a community may be loved in the higheſt degree, its members ſhould be relieved of perſonal anxieties, and occupied in what relates to the public.

They ſhould be made to conſider the ſtate as the equal parent of all, diſtributing equal benefits, and requiring equal ſervices.

Where-

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Where-ever the ſtate confines political conſideration to a few, who ſacrifice the rights of others to their own intereſt or fancy, it cannot be loved.

The reaſon and the heart of man are beſt cultivated in the exerciſe of ſocial duties, and in the conduct of public affairs.

SECT. IV.

Of the Fitneſs of the Inſtitution to the People.

MEN of ſpeculation have in vain endeavoured to fix a model of government equally adapted to all mankind.

One people is unfit to govern, or to be governed, in the ſame manner with another.

Nations differ in reſpect to character, and to circumſtances.

The character of a people refers to their degree of virtue, or of other principle, on which the ſtate may rely for the diſcharge of ſocial and political duties.

The circumſtances of a people are determined chiefly by their caſual ſubordination, and by the extent of their country.

Caſual ſubordination is founded either in original or adventitious diſtinctions.

Original diſtinctions are, the differences of capacity, diſpoſition, and force.

Adventitious diſtinctions ariſe from fortune and birth.

Queſtions relating to the propriety of any political inſtitution, can be ſolved only hypothetically.

Such queſtions may be put on four different ſuppoſitions.

FIRST

First Supposition.

The ſuppoſition of a people perfectly virtuous, diſtinguiſhed from each other only by their original differences, and forming ſtates of ſmall extent.

Such a people are fitted to govern themſelves.

They need no precaution againſt the commiſſion of crimes, or the abuſes of power.

The ſole object of government is, to aſſemble and to direct their force for national purpoſes.

Being of ſmall extent, the whole may be occaſionally or periodically aſſembled.

Being perfectly virtuous, every one will be willing to bear his ſhare of the public burdens, and will receive, in his turn, that confidence and truſt for which he is

by his capacity and experience qualified.

They have no adventitious distinctions to mar the effect of their personal qualities.

They may stipulate to be governed by the majority of their own number, or occasionally by single men; but to oblige such men by force to resign the sense of their own minds, and to follow that of another, were, by the supposition, to substitute vice for virtue.

This, however, is a mere supposition; for no entire nation was ever known to be perfectly virtuous.

Second Supposition.

A people in whom the virtuous and the vicious are mixed; who admit adventitious distinctions in different

different degrees, and form ſtates of various extent.

This is not mere ſuppoſition, it is fact, and the moſt general deſcription of mankind.

If there be no great ſeparation or diſtinction of rank and condition;

If virtue greatly prevails over vice; If the ſtate be of ſmall extent;

Such a people are fit for democracy.

Their numbers admit of being aſſembled in collective bodies.

Their virtues and their inſtitutions may prevent crimes, and abuſes of power.

They may reap the advantages of democracy, in a manner that will more than compenſate its inconveniencies.

If ſuch a people be ſeparated into different orders or claſſes, they

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they are fitted to ariſtocracy, mixed republic, or mixed monarchy.

If in two claſſes, one is diſtinguiſhed from the other by a conſiderable ſuperiority, they are fit for ariſtocracy.

Commercial nations of a ſmall extent are, in the reſult of diſtinctions that ariſe from the practice of arts, and the unequal diſtribution of property, beſt fitted to ariſtocratical government, or to mixed republic.

The inferior claſs, if not greatly debaſed or corrupted, may have a ſhare in the government, either by a negative on the determinations of the ariſtocracy, or by being intruſted, not with an active part in the government, but only with the choice of thoſe who are to act for them.

The ſame ſuppoſition applied to ſtates of a greater extent, and

to

to a people among whom a greater variety of rank is eſtabliſhed, will juſtify the preference of mixed monarchy.

It were happy for mankind, if, together with changes of circumſtances, they could always make ſuitable changes in government.

Where changes of circumſtance are gradual, correſponding changes of government take place; but ſudden innovations of any ſort, precipitate men into ſituations in which they are not qualified to act.

Third Supposition.

A people, on whoſe vanity, and ſenſe of perſonal importance, rather than virtue, the ſtate muſt rely for the diſcharge of the ſocial and political duties. A people amongſt whom a continual adventitious ſubordination takes place,

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place, without any example, or any desire, of equality.

Such a people are not fit to govern themselves.

Their subordination must terminate in a prince or monarch.

They require monarchy as a bond of union, and as a source of honour.

While every one attends to what concerns himself, the monarch, for the preservation of his own person and dignities, must attend to the public safety, and public order.

The subordinate ranks will court his favour, and consult their own dignity, by actions, either splendid in themselves, or useful to the state, whilst they are serviceable to the king.

The members of the state are drawn together, and moved in a body, not by their love to the community,

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community, or to mankind, but by their veneration for their common ſuperior, and by their expectations from their common ſource of preferment and honour.

The maxims of honour are not ſuſceptible of ſudden changes; and the dignities of family, tho' for the moſt part conferred by the prince, are hereditary; and therefore independent.

Both theſe circumſtances oblige the prince to govern according to fixed and determinate laws.

Fourth Supposition.

A people perfectly vicious, without ſenſe of honour, or hereditary diſtinctions.

Such a people muſt be reſtrained by force.

Every conſtitution, even that which confides moſt in the virtue of

of the ſubject, muſt employ force to repreſs crimes.

If the whole people be inclined to commit crimes, and be reſtrained only by fear, the proſpect of prompt and terrifying puniſhments muſt be continually placed in their view.

This ſuppoſition may be employed as an apology for deſpotiſm.

Where every perſon is diſpoſed to commit crimes, the fewer that have power ſo much the better.

When all power is committed to one perſon, even ſuppoſing himſelf to be a criminal, it is his intereſt, for the moſt part, to reſtrain the crimes of others.

His ſeverities, or cruelties, by the ſuppoſition, can no where afflict the innocent.

His dominions, though, like a priſon, committed to the keeping of

of vile and mercileſs men, is nevertheleſs the only fit place to receive thoſe who cannot be otherwiſe reſtrained from injuſtice.

But this caſe, like that which was firſt ſtated, of a people perfectly virtuous, is a mere ſuppoſition, and never was realiſed in the character of any people.

Men are generally as far from the extreme of perfect vice, as they are from that of perfect virtue.

They who contend, that deſpotical government is in fact the beſt for mankind, proceed upon three ſuppoſitions, all equally violent and falſe.

1. That all men would commit crimes if they durſt.

2. That crimes cannot be reſtrained without diſcretionary powers.

3. That a perſon to whom diſcretionary powers are committed,

ted, will employ them to repreſs the crimes of others, but not to commit crimes of his own.

Theſe ſuppoſitions are contrary to experience.

The fact is, that the manners of men are various; and that the ſame penal laws, and forms of juſtice, by which a people may be ſucceſsfully governed in a virtuous age, will not always be ſufficient to reſtrain them in ages corrupted.

When the criminal paſſions increaſe in violence and boldneſs, it may be neceſſary to increaſe the meaſure of puniſhments.

When crimes multiply, and criminals are enabled to employ the forms of law as the ſubterfuges of iniquity, it may be neceſſary to alter ſuch defective forms: but it never can be neceſſary to deprive the innocent of all the defences of reaſon and juſtice; for the

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the ſame reaſon and juſtice which protect the innocent, may condemn the guilty.

In times of occaſional tumult, popular frenzy, or rebellion, it may be neceſſary to treat thoſe who commit ſuch crimes, not as ſubjects amenable to the laws, but as enemies, who, by invading the public peace, have deprived every citizen of his ſafety, and who therefore cannot have the benefit of laws until the public has recovered its ſecurity.

Such domeſtic diſorders, like foreign wars, render diſcretionary power occaſionally neceſſary; but this neceſſity is only temporary.

For the moſt part, even in corrupted ſtates, it is as much the intereſt of the ſubject as of the magiſtrate, to keep the peace, and to repreſs crimes.

Continual deſpotiſm is never a neceſſary nor an uſeful expedient; it is an uſurpation, and a national misfortune.

It tends to produce that extremity of vice to which it is ſuppoſed to be adapted as a remedy.

The object of deſpotical government, is not to ſecure the ſubject in the poſſeſſion of his rights, but to make him a property; not to ſuppreſs vice, but to ſuppreſs the higheſt and nobleſt virtues of the heart, public ſpirit, independence, and courage.

SECT.

SECT. V.

Of the Diſtribution of Office fitted to the Conſtitution.

IN free governments of every denomination, where law is neceſſary, the law muſt be enacted, interpreted, and executed. Hence the offices or functions of ſtate are, legiſlation, juriſdiction, and execution.

Legiſlation, under every conſtitution of government, is the immediate act of the ſovereign power, and cannot be delegated without transferring the ſovereignty.

This rule does not exclude the concurrence of councils, nor the obſervance of forms ſuited to the conſtitution.

Under democracies, the legiſlation is exerciſed by the collective

body; but it is not neceſſary that the collective body ſhould deliberate, as well as decide.

The collective body may name ſenates, or ſelect councils, to prepare queſtions of legiſlation.

They may vary the form of collecting the votes, or of promulgating the law.

They may fix, at diſcretion, what numbers are required to conſtitute a legal aſſembly, and what proportion of thoſe preſent will decide any queſtion in the affirmative.

Under ariſtocracies, the collective body of thoſe who govern, whether by elective or hereditary title, muſt exerciſe the legiſlature.

They may act, notwithſtanding, under the ſame forms and limitations that have been mentioned

tioned as compatible with the ſovereignty of the whole people.

Under monarchy, the legiſlature is exerciſed by the king.

The king ſtands in need of councils; and his legiſlative power may be qualified by the forms of regiſtration, or promulgation, required to give the force of law to his edicts.

In mixed government of any ſort, the legiſlature muſt be exerciſed by the concurrence of all the collateral powers.

If a law could be enacted without the concurrence of any ſingle power, that power might be ſuppreſſed by the others.

If the ſuppoſed collateral powers were to aſſemble, and decide queſtions of legiſlation by the majority, any way defined, the government would ceaſe to be mixed.

The

The ſovereignty of collateral powers is compatible with a variety of forms relating to the propoſing and the enacting of laws.

Sovereigns of any denomination, who have ſuffered courts of juſtice to follow cuſtom as a rule of deciſion, are to be underſtood as having eſtabliſhed that cuſtom into law.

Juriſdiction, or the office of judge, is, to interpret the law, and to apply it in particular caſes.

This office, under every conſtitution, ſhould be disjoined from that of legiſlation.

The ſovereign, being accuſtomed to will, or to command, cannot ſubmit merely to interpret, or to follow a rule.

Particular caſes are modified by circumſtances that create prejudice, or excite paſſion.

The

The ſovereign, having no ſuperior, may follow prejudice or paſſion at diſcretion.

The ſovereign having enacted the law, would, under the influence of ſpecial motives, make free to diſpenſe with it.

Popular or numerous aſſemblies would be ſwayed by faction.

Princes would be ſwayed by their paſſions, and by ſolicitation.

Two queſtions may be put relating to judicature:

1. Who ought to judge?

2. Of what numbers are courts of juſtice beſt compoſed?

1. Where-ever laws are greatly multiplied, the knowledge of law becomes a profeſſion.

No judgement can be ſafely given without the counſel of thoſe who are knowing in the law.

The

The office for which counſel is neceſſary, is that of pointing out the law, and the whole law, in any particular caſe.

Perſons who are not lawyers by profeſſion, may interpret and apply a law which is pointed out to them; in the manner of the judges at Rome, and of the juries in Great Britain.

Beſide the counſel employed by parties, the public may employ counſel for juſtice and law. This is the nature of official judges in Great Britain.

Juriſdiction committed entire to official judges, is attended with the following inconveniencies.

(1) The official judge being a continual magiſtrate, may entertain the prejudices of the magiſtrate againſt the ſubject.

(2) The peculiar prejudices and partialities

partialities of the official judge, if he has any, may be known.

They who enjoy his favour, are tempted to treſpaſs in hopes of impunity, or to commence vexatious ſuits in hopes of ſucceſs.

They who apprehend his diſpleaſure, do not feel themſelves ſecure even in poſſeſſion of innocence.

Theſe inconveniencies are removed, in a great meaſure, by the eſtabliſhment of judicatures in the Roman form, or in that of juries.

The juryman is equally intereſted to protect the innocent, and to condemn the guilty.

Juries may therefore be intruſted with ſome meaſures of diſcretionary power, to mitigate the rigours of law, or to ſupply its defects.

Where a people are divided into a number of ſeparate orders and

and claſſes, as thoſe of Patrician, Equeſtrian, and Plebeian, Lords and Commons, the rights of one order are not ſafely intruſted to the judgement of another; and it would be expedient, that every party were judged by his peers.

2. Under popular, or republican governments, of any ſort, courts of juſtice are beſt compoſed of few members.

Courts compoſed of many members carry popular faction and party into the judgement-ſeat. The individual hopes to ſcreen himſelf even in judging falſely, under the authority and credit of the whole body.

No one is accountable; no one is conſpicuous; all are tempted to humour their party, and to judge at diſcretion.

Under monarchy, courts of juſtice are beſt compoſed of many.

Here

Here the influence of the crown is more to be dreaded, than the faction of the people.

This influence can leſs overawe or corrupt numerous bodies, than ſingle men, or a few.

Numerous bodies, in their deliberations, admit of the zeal and ardour that animate popular aſſemblies; and even whilſt they do not judge more impartially than ſingle men would do, they judge with more independence.

The ſpirit of faction that in republics conſtituted corruption, in monarchies tends to prevent a greater corruption, ſervility to thoſe in power.

The office of the executive is, to apply the force of the ſtate for national purpoſes:

1. To give effect to the laws.

2. To defend the community againſt foreign enemies.

tizens, to whom any powers might be ſafely intruſted.

Some of the moſt important powers, both in Sparta and at Rome, were diſcretionary.

In monarchy, the abuſes of the executive are reſtrained by the forms of law, and by the privileges of ſubordinate ranks;

In all conſtitutions, they may be reſtrained by having magiſtrates and miniſters accountable,

By the integrity of thoſe who conſtitute the force committed to the direction of the executive.

When the armed force is part of the people, it is their intereſt, as well as their duty, to refrain from abuſe.

SECT.

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SECT. VI.

The Importance of Political Inſtitutions.

BY political inſtitutions, rights are preſerved or invaded, men are placed in the relation of equals or of maſter and ſlave, their crimes are authoriſed or repreſſed, and their manners improved or corrupted.

Political inſtitutions tend to augment the good or the evil with which they are fraught.

Human affairs, in ſome inſtances, tend to improvement; in others, to corruption.

The inſtitutions of men, in one caſe, promote their improvement; in the other, haſten their corruptions.

Inſtitutions

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Inſtitutions that preſerve equality, that engage the minds of citizens in public duties, that teach them to eſtimate rank by the meaſure of perſonal qualities, tend to preſerve and to cultivate virtue.

On the contrary, inſtitutions by which men are ſtripped of their rights, or by which they are made to hold their poſſeſſions at diſcretion, under which they are ſuppoſed governable only by force, and by the fear of puniſhment, tend to beget tyranny and inſolence in the ſovereign, ſervility and vileneſs in the ſubject; to *cover every viſage with paleneſs* *, and to fill every heart with jealouſy or dejection.

The greateſt and moſt extenſive benefit which ſingle men can beſtow, is the eſtabliſhment

* Vid. L'Eſprit des Loix, liv. 6. c. 5.

or

or preſervation of wiſe inſtitutions:

Or the greateſt injury that wicked men commit, is the overthrow or corruption of ſuch inſtitutions.

THE END.

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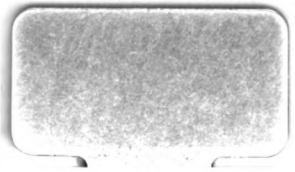

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